

**CENTRAL ADMINISTRATIVE TRIBUNAL
CHENNAI BENCH**

O.A.No.1429/2018

Dated Tuesday, the 8th day of January, 2019

PRESENT

Hon'ble Mr.R.Ramanujam, Administrative Member

S.Ahamed Sherif,
S/o.(Late) Sheik Dawood, No.2274,
West 3rd Street, Jinna Complex (upstair),
Pudukkottai 622 001.

...Applicant

By Advocate M/s R.Malaichamy

Vs.

1.The Union of India,
Rep., by the Secretary,
Ministry of Communications & IT,
Department of Posts, Dak Bhavan,
Sansad Marg, New Delhi 110 011.

2.The Chief Postmaster General,
Tamil Nadu Circle, Anna Salai,
Chennai 600 002.

3.The Postmaster General,
Central Region (TN),
Tiruchirappalli 625 001.

4.The Superintendent of Post Offices,
Pudukkottai Division,
Pudukkottai 622 001.

...Respondents

By Advocate Mr.M.Kishore Kumar

(Order: Pronounced by Hon'ble Mr.R.Ramanujam, Member(A))

Heard. The applicant has filed this OA under Section 19 of the Administrative Tribunals Act, 1985 seeking the following reliefs:

“(i)To declare Rule 6 of GDS (C&E) Rules, 2011 as null and void and violative of Articles 14, 16 & 21 of Constitution of India,

(ii)To call for the records of the 4th respondent pertaining to his order made in (1) No.C11/Pension Dlgs dated 15.10.2015 and (2) No.ASP/OA/310/01188/2017 dlgs dated 23.04.2018 and the order of 2nd respondent made in No.APA/Misc/CR/2016 dated 17.10.2016 and set aside the same, consequent to,

(iii)Direct the respondents to treat the period of vacancy till the applicant was appointed as Postman on 10.09.1998, count the entire GDS rendered from 10.05.1969 and the qualifying service rendered in Postman cadre for about 7 years and 9 months and thereby to extend the benefit of judgments in the cases of V.Krishnasamay, Velayutham, Thulasidhasan etc and further direct the respondents to grant eligible pension to the applicant.

(iv)To pass such further or other orders as this Hon'ble Tribunal may deem fit and proper in the circumstances of the case.”

2. Learned counsel for the applicant would submit that the applicant is similarly placed as those in OA 749/2015 disposed of by the Principal Bench of this Tribunal by an order dated 17.11.2016. As it was a judgement in rem and it had been held therein that persons appointed as GDS were entitled to pension, the applicant should also be granted the benefit, it is contended.

3. Learned counsel for the respondents, however, opposes the prayer submitting that a similar claim had been considered by this Bench earlier in OA 785/2011 which was rejected. The matter was taken up further before the Hon'ble Madras High Court in WP. No. 13500/2016. Hon'ble High Court in its order

dated 17.10.2016 rejected the prayer of the applicants therein and held that though GDS were holders of a Civil Post, they were not entitled to pension as they were outside the Civil Service of the Union.

4. It is submitted that the Principal Bench passed the order in the said OA without being aware of the order passed by the Hon'ble Madras High Court and, therefore, the applicant could not claim benefit thereunder. In any case, the order of the Principal Bench had been challenged in a Writ Petition before the Hon'ble Delhi High Court and as such, it has not attained finality.

5. It is further submitted that the demand for pension by GDS was considered by the 7th Pay Commission which had also noted that in terms of the judgement of the Hon'ble Supreme Court in the relevant case, GDS were only holders of a Civil Post and did not belong to a Civil Service of the Union.

6. I have considered the matter. At this stage, since a similar claim had been rejected earlier by this Bench and the Hon'ble Madras High Court had upheld the order, it would not be possible to go into the merits of the claim of the applicant *denovo*. It is also evident that the matter is before the Hon'ble Delhi High Court and it is for the affected parties to bring it to the notice of the said Court, the judicial precedents in this regard including the order passed by the Hon'ble Madras High Court. The law on the

subject is expected to attain finality only after the matter is disposed of by the Hon'ble Delhi High Court. In the event of the matter being taken up further in the Hon'ble Supreme Court by either side, the decision of the Hon'ble Apex Court would finally settle this issue.

7. In the aforesaid background, facts and circumstances of the case, I am of the view that this OA could be disposed of with a direction to the respondents to reconsider the claim of the applicant for pension under CCS (Pension) Rules 1972 in the event of the law being finally settled in favour of persons similarly placed as the applicant herein with regard to their claim for grant of pension under the said rules within a period of three months thereafter. Respondents directed accordingly.

M.T.

(R.RAMANUJAM)
MEMBER (A)

08.01.2019