

CENTRAL ADMINISTRATIVE TRIBUNAL  
MADRAS BENCH

Dated the Thursday 1<sup>st</sup> day of November Two Thousand And Eighteen

PRESENT:

THE HON'BLE MRS. JASMINE AHMED, MEMBER (J)  
THE HON'BLE MR. R. RAMANUJAM, MEMBER (A)

O.A./310/1437/2016

T. Jayabalan,  
S/o. late Sri M. Thangavelu,  
Aged about 65 years,  
Retd. Postman, Vellore Fort Post Office,  
R/o. Kilmanavoor Village, Konavattam,  
Vellore-632 013. ....Applicant

(By Advocate : Mr.K.M. Ramesh)

Versus

1. Union of India Rep. by  
The Chief Postmaster General,  
Tamil Nadu Circle,  
Anna Salai, Chennai- 600 002;
2. The Postmaster General,  
Chennai City Region,  
O/o. Chief Postmaster General,  
Anna Salai, Chennai- 600 002;
3. The Senior Superintendent of Post Offices,  
Vellore Postal Division,  
Vellore- 632 001. ....Respondents

(By Advocate: Mr. S. Nagarajan)

**O R A L   O R D E R**

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

Heard. Applicant has filed this OA seeking the following relief:-

"to call for the records relating to the impugned order of the 3<sup>rd</sup> respondent bearing Memo No. C1/12/373 dated 28.06.2016 rejecting the claim of the applicant for pensionary benefits and to issue consequential direction to be issued to the Respondents to grant pensionary benefits to the applicant from the date of his superannuation from service namely from 31.01.2012 onwards with all arrears of pension along with interest taking into account his service from 04.06.2001 to 31.10.2002 as outsider Postman."

2. This is the second round of litigation by the applicant who seeks the benefit of service rendered in officiating capacity prior to being appointed on regular basis as Postman in the respondent department for pension under CCS (Pension) Rules 1972. It is submitted that the applicant had filed OA No. 1464 of 2013 (Annexure-A9) which was disposed of on 01.03.2016 with a clear observation that the respondents' approach was found to be incorrect and unless there were facts contrary to the findings of the Tribunal recorded therein, the authority had to, by placing reliance on the OM, grant pensionary benefit to the applicant. Accordingly, the authorities were directed to reconsider the decision taken under the impugned order therein and pass an order specifying the reasons and communicate the same to the applicant. The impugned order Annexure-A/10 dated 28.06.2016 came to be passed in pursuance thereof, aggrieved by which the applicant has filed this OA.

3. Learned counsel for the applicant would draw attention to the fact that the applicant's request for pension had been turned down earlier. It had been stated that the service under GDS could not count for the purpose of pension as per the relevant rules. The applicant was governed by GDS (Employment & Conduct) Rules. His reliance on OM dated 14.05.1968 was misplaced as the said OM was in regard to casual labourers such as daily wagers, Mazdoors, Contingent paid staff, outsiders etc who were to be engaged for a period of 8 hrs. per day. The applicant did not fulfil the condition as he was appointed for less than 8 hours.

4. Learned counsel for the applicant would seek to assail the impugned order on the ground that the applicant had been appointed as a Postman in officiating capacity by an order dated 2.06.2001, Annexure-A/1 which had not been taken into account and considered as qualifying service. It is submitted that as per the definition of qualifying service under the CCS (Pension) Rules, service rendered while on duty or otherwise shall be taken into account for the purpose of pension and gratuity admissible under the rules. He draws attention to Rule 3 (1)(q) of CCS (Pension) Rules 1972 read with Rule 13 which is reproduced below:-

Rule 3 (1)(q):-'Qualifying Service' means service rendered while on duty or otherwise which shall be taken into account for the purpose of pensions and gratuities as admissible under these rules."

Rule 13:-Commencement of qualifying service:-

Subject to the provisions of these rules, qualifying service of a Government servant shall commence from the date he takes charge of the post to which he is first appointed either substantively or in an officiating or temporary capacity:

Provided that officiating or temporary service is followed without interruption by substantive appointment in the same or another service or post:

5. It is submitted that the Hon'ble High Court of Madras had by an order dated 10.09.2018 in W.P. No.4681/2018 upheld the order of this Tribunal in an identical case. As such, the applicant is entitled to be granted similar relief, it is contended.

6. Learned counsel for the respondents would submit that the impugned order was self explanatory and he had nothing to supplement it.

7. On examination, it is seen that the applicant had indeed been appointed in an officiating capacity by Annexure A/1 order dated 2.6.2001 and on regular basis by Annexure -A/2 order dated 23.10.2002. His services remained uninterrupted from the date of his appointment in officiating capacity. As the Hon'ble High Court has upheld the order of this Tribunal in a similar case in W.P. no. 4681/2018, we have no hesitation to state that the ratio of this order shall apply to the applicant. Accordingly, Annexure A/10, impugned order dated 28.06.2016, is set aside. The respondents are directed to treat the applicant as eligible for pension under CCS (Pension) Rules 1972 and pass necessary orders within a period of two months from the date of receipt of copy of this order.

8. OA allowed in the above terms. No costs.

(R. RAMANUJAM)  
MEMBER (A)

(JASMINE AHMED)  
MEMBER (J)

Asvs.

01.11.2018