CENTRAL ADMINISTRATIVE TRIBUNAL
CHENNAI BENCH

OA/310/01498/2018

Dated Monday the 7th day of January Two Thousand Nineteen

CORAM : HON'BLE MR. R. RAMANUJAM, Member (A)
HON'BLE MR. P. MADHAVAN, Member (J)

N.Rangaraju,
No. 11/28, Pillayar Koil Street,
Gandhi Nagar,
Thammampatti 636113. ….Applicant

By Advocate M/s. R. Malaichamy

Vs

1.Union of India,
rep by the Secretary,
Ministry of Personnel, Public Grievances & Pensions,
Department of Pensions & Pensioners Welfare,
3rd Floor, Lok Nayak Bhavan,
Khan Market, New Delhi 110003.

2.The Secretary,
Ministry of Communications & IT,
Department of Posts,
Dak Bhavan, Sansad Marg,
New Delhi 110011.

3.The Chief Postmaster General,
Tamil Nadu Circle,
Anna Salai,
Chennai 600002.

4.The Postmaster General,
Western Region (TN),
Coimbatore 641002.

5.The Senior Superintendent of Post Offices,
Salem East Division,
Salem 636001. ….Respondents

By Advocate Mr. K. Kannan

ORAL ORDER

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

Heard. The applicant has filed this OA seeking the following reliefs :

"1. To call for the records of the 3rd respondent pertaining to his order made in Memo No. OA 851/2017 dated 03.08.2018 and set aside the same, consequent to

2. direct the respondents 2 to 5 to treat the year of vacancy, the officiating service rendered as Group-D and the service rendered in GDS cadre by the applicant as qualifying service along with regular service and grant retirement service benefits including pension to the applicant under Old pension scheme within the purview of CCS (Pension) Rules 1972 with all retirement service benefits, also

3. direct the respondent 2 to 5 to revise and refix the retirement service benefits including pension of the applicant and pay arrears of pension and connnected retirement service benefits to him and

4. direct the 5th respondent to refund the recovered amount from the salary of the applicant towards New Pension Scheme; and,

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

2. It is submitted that the applicant was aggrieved by Annexure A7 order dt. 03.08.2018 by which his request for grant of pension under the CCS (Pension) Rules, 1972, vide representation dated 17.04.2017 was rejected stating that the applicant's selection was made on 25.06.2005 and he joined the department on 30.07.2005. Learned counsel for the applicant would argue that in a similar case where the persons concerned had been appointed against 2002 or 2003 vacancies, the Tribunal had directed the authorities to grant pension under the CCS (Pension) Rules, 1972 as it was not the applicants' fault that their appointment was delayed beyond 01.01.2004. It is further submitted that the orders of this Tribunal had been upheld by the Hon'ble Madras High Court.

However, SLPs thereagainst are pending in the Hon'ble Apex Court.

3. Learned counsel for the applicant would add that the matter of eligibility of GDS to count the GDS service for the purpose of Pension under the CCS (Pension) Rules, 1972 is also pending before the Hon'ble Apex Court in SLP no. 16767/2016 and SLP no. 18460/2015. Accordingly, the applicant would be satisfied if the respondents are directed to review the impugned order in accordance with the law to be laid down by the Hon'ble Apex Court in the pending cases.

4. Learned counsel for the respondents would, however, submit that the applicant had not sought such relief in this OA and, therefore, the argument should be confined to treating the officiating service rendered by the applicant as qualifying for the purpose of pension under CCS (Pension) Rules, 1972. Clearly, the applicant had been appointed into Government service after 01.01.2004 and, therefore, such addition of officiating service, even if allowed would not make any difference to the rights of the applicant as he could not be covered by any scheme other than the NPS.

5. We have considered the matter. From the facts of the case and the representation of the applicant dated 17.04.2017, it does appear that the applicant was selected against a vacancy of 2003 and hence the ratio of previous orders passed by this Tribunal would hold unless reversed by the Hon'ble Apex Court. A similar case had been disposed of by this Tribunal in OA 1226/2016 by order dated 04.09.2018. It was observed therein that in the event of the

Hon'ble Apex Court upholding the order of this Tribunal to the effect that persons appointed against pre-2004 vacancies should be considered eligible for pension under the CCS (Pension) Rules, 1972, the competent authority shall review the impugned order therein and pass fresh orders. In such circumstances, we are of the view that this OA could also be disposed of with the following direction:

"In the event of the Hon'ble Apex Court upholding the order of this Tribunal to the effect that persons appointed against pre-2004 vacancies should be considered eligible for pension under the CCS (Pension) Rules, 1972, the competent authority shall review the impugned order dt. 03.08.2018 within a period of two months thereafter and pass fresh orders. Similar action shall be taken in the event of the SLPs cited supra regarding counting of GDS service for pension purposes being decided in favour of persons similarly placed as the applicant."

6. OA is disposed of with the above directions. No costs.

(P. Madhavan)
Member(J)

(R. Ramanujam)
Member(A)

07.01.2019

SKSI