

**CENTRAL ADMINISTRATIVE TRIBUNAL
CHENNAI BENCH**

O.A.No.752/2017

Dated Friday, the 22nd day of March, 2019

PRESENT

Hon'ble Mr.R.Ramanujam, Administrative Member

P.Dalvi Muthu Chezhian,
S/o.N.Pechimuthu, No.415,
Makiltchi Nagar, Perumalpuram,
Tirunelveli 627 007.

... Applicant

By Advocate M/s R. Malaichamy

Vs

1. Union of India
Rep. by the Secretary,
Ministry of Personnel, Public Grievances
and Pensions, Department of Pensions and
Pensioners Welfare, 3rd Floor, Lok Nayak Bhavan,
Khan Market, New Delhi 110 003.

2.The Secretary
Ministry of Communications & I.T.,
Department of Posts
Dak Bhavan, Sansad Marg
New Delhi 110 001.

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

4. The Postmaster General
Southern Region (TN) Madurai 625 002.

5. The Superintendent of Post Offices
Tirunelveli Division
Tirunelveli 627 002.

... Respondents

By Advocate Mr.C.Ajithkumar

(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:

"1. To call for the records of the 5th respondent pertaining to his order made in No.C/NPS-CCS(P)Misc DlgS dated 02/03.03.2017 and set aside the same, consequent to

2. direct the 2nd respondents to treat the period of year of vacancy as qualifying service rendered by the applicant along with regular service and thereby to treat the service of the applicant under old pension scheme within the purview of CCS (Pension) Rules, 1972 with all retirement service benefits, also,

3. direct the 5th respondent not to recover any amount from his salary towards New Pension Scheme and thereby to refund the amount recovered from his salary towards such Scheme, and

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

2. It is submitted that the applicant was appointed as GDS BPM on 25.03.1992. After coming out successful in the competitive examination held on 04.04.2004 for the vacancy year 2002, he was appointed as Postman w.e.f 31.07.2004. He made a representation dated 19.10.2016 requesting to be extended the benefits of CCS (Pension) Rules 1972 which was rejected by order dated 02/03.03.2017 on the ground that his date of appointment was 31.07.2004 (i.e. after 31.12.2003) and, therefore, he was covered under New Pension Scheme only. Hence this OA.

3. It is contended that the applicant was appointed as Postman against a vacancy that arose in the year 2002 as revealed by Annexure

A-2 notification. This Tribunal had in several similar cases directed the respondents to grant pension to the applicants under the CCS Pension Rules, 1972. The order of the Tribunal had also been upheld by the Hon'ble Madras High Court in some cases.

4. Learned counsel for the applicant relies on the orders of this Tribunal in OA 1419/2014 dated 19.08.2016, OA 1508/2014 dated 23.08.2016, OA 1078/2013 dated 21.09.2016, OA 1040/2015 dated 09.09.2016, OA 1939/2014 dated 31.03.2017 & OA 1306/2014 dated 16.06.2017 granting relief to similarly placed persons. He also relies on the order of the Hon'ble Madras High Court in WP No.21193/2015 dated 01.03.2017 wherein pension was directed to be granted to a person who had been appointed against a vacancy of the year 2002-2003.

5. Learned counsel for the respondents, however, submits that the law on the subject had not attained finality as presently SLPs No.16767/2016 & 18460/2015 are pending in the Hon'ble Apex Court on whether persons appointed against pre-2004 vacancies could be granted pension under the CCS (Pension) Rules as also whether persons who had served for long periods as GDS before induction into Government service could be allowed to count their services for pension.

6. We have considered the submissions. This Tribunal has disposed of similar OAs with a direction to the respondents to review their decision in regard to the applicants therein in the event of the law being settled finally by the Hon'ble Apex court in favour of persons who had served as

GDS for long years and/or who had been appointed against a pre-2004 vacancy for pension under the CCS Pension Rules, 1972. Accordingly, I am of the view that this OA could also be disposed of with the following direction:

“The competent authority shall review their Annexure A-5 impugned order dated 02/03.03.2017 in the case of the applicant, 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, within a period of two months thereafter and pass fresh orders. Similar action shall be taken in the event of SLPs in respect of counting of GDS service for the purpose of pension being decided in favour of the persons similarly placed as the applicants”.

7. OA is disposed of as above. No costs.

(P.MADHAVAN)
MEMBER(J)

M.T.

(R.RAMANUJAM)
MEMBER (A)

22.03.2019