

**CENTRAL ADMINISTRATIVE TRIBUNAL
CHENNAI BENCH**

OA/310/01006/2016

Dated Monday the 8th day of April Two Thousand Nineteen

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

K. Balasubramanian

Working as Sub Postal Master, Ulundurpet SO

Opposite to Sadana Play School

Meenatchipuram South

Ulundurpet TK 606 107

Villupuram District.

... Applicant

By Advocate M/s. K. M. Ramesh

Vs

1. Union of India

Rep. by the Chief Postmaster General

Tamil Nadu Circle

Anna Salai, Chennai – 600 002.

2. The Senior Superintendent of Post Offices

Vriddhachalam Division

Vriddhachalam – 606 001.

... Respondents

By Advocate Mr. M. Kishore Kumar

ORAL ORDER

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

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

"To call for the records relating to the impugned order and quash the same issued by the 2nd respondent passed by the 2nd respondent bearing No. C51/Genl./dlgs. Dated at Vriddhachalam 606 001, dated the 13.05.2016 rejecting the claim of the applicant seeking pension and terminal benefits under Old Pension Rules and consequently direct the respondents not to recover any amount from the applicant towards subscription to New Pension Scheme by declaring that the applicant is governed by CCS Pension Rules, 1972 and to pass such other order or direction as this Hon'ble Tribunal may deem fit and proper in the circumstances of the case and thus render justice."

2. It is submitted that the applicant was aggrieved by Annexure A4 order dt. 26.04.2016 by which his representation dated 25.04.2016 for grant of pension under the CCS (Pension) Rules, 1972 was rejected on the ground that he would be governed by CCS (Temporary Service) Rules, 1965 and the New Pension Scheme as communicated in DG(P) letter dt. 17.12.2003.

3. Attention is drawn to Annexure A2 memo of the Department of Posts dt. 23.07.2004 which shows the list of candidates who had come out successful in the examination for promotion to Postman cadre held on 04.04.2004 for the vacancies of the year 2002 in which the applicant's name figures at Sl. No. 3. Learned counsel for the applicant would argue that in a similar case where the persons concerned had been appointed against a 2002 or 2003 vacancy, 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.

4. 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.

5. 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 material difference to the rights of the applicant as he could not be covered by any scheme other than the NPS, it is contended.

6. We have considered the matter. From the facts of the case and the memo of the Department of Posts dt. 23.07.2004, it appears that the applicant was selected against a 2002 vacancy and hence the ratio of the previous orders passed by this Tribunal would hold good unless reversed by the Hon'ble Apex Court. A similar case was disposed of by this Tribunal in OA 1226/2016 by

order dated 04.09.2018. It was directed 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.

7. In the above 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. 26.04.2016/13.05.2016 within a period of two months thereafter and pass fresh orders. Similar action shall be taken in the event of the SLPs cited supra in respect of counting GDS service for pension being decided in favour of persons similarly placed as the applicant."

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

(P. Madhavan)
Member(J)

(R. Ramanujam)
Member(A)

08.04.2019

SKSI