

CENTRAL ADMINISTRATIVE TRIBUNAL
MADRAS BENCH

Dated the Thursday 11th day of April Two Thousand And Nineteen

PRESENT:
THE HON'BLE MR. R. RAMANUJAM, MEMBER (A)

MA. No.310/240/2019
In and
OA No310/535/2019

1. K. Parameshwari, D/o. S. Kannappan,
Aged 39 years, Working as Postwoman,
Nedungadu S.O., Nagapattinam Division;
2. M. Mohamed Hussain, S/o. Mohamed Maideen,
Aged 61 years, Retired Postman, Nagapattinam Division;
3. S. Murugesan, S/o. K. Subramanian,
Aged 52 years, Working as Postman,
T.R. Pattinam S.O., Nagapattinam Division;
4. P. Mani, S/o. Pichi Pillai,
Aged 62 years, Retired Postman,
Nagapattinam Division;
5. N. Shanmugasundaram, S/o. Natesan,
Aged 60 years, Working as Postman,
Karaikal, MDG;
6. G. Srinivasan, S/o. Natesan,
Aged 43 years, Working as Postman,
Tirunallar, Nagapattinam Division;
7. S. Arumugam, S/o. K. Shanmugam,
Aged 61 years, Retired MTS, Karaikal MDG,
Nagapattinam Division;
8. T. Bagavandoss, S/o. K. Thirunarayanan,
Aged 60 years, Working as Postman,
Mudikondan S.O., Nagapattinam Division;
9. K. Mohanraj, S/o. Kathan,
Aged 43 years, Working as Postman,
Karaikal MDG,
Nagapattinam Division;

ASVS

10. T. Somasundaram, S/o. N. Thangarasu,
Aged 42 years, Working as Postal Assistant,
Karaikal MDG, Nagapattinam Division;
11. C. Mani, S/o. V. Chidambaram,
Aged 50 years, Working as Postman,
Manjakollai,
Nagapattinam Division;
12. N. Anbalagan, S/o. Narayanan,
Aged 58 years, Working as MTS,
SPOS NM Division Office,
Nagapattinam Division;
13. B. Saravanan, S/o. A. Balu,
Aged 40 years, Working as Officiating Mail Overseer,
Karaikal,
Nagapattinam Division;
14. S. Sekar, S/o. G. Sivasamy, Aged 55 years,
Working as Postal Assistant,
Nammilam SO, Nagapattinam Division;
15. P. Dasarathan, S/o. S. Pandurengan,
Aged 58 years,
Working as Postman, Neravy,
Nagapattinam Division;
16. S. Dhandapani, S/o. R. Somasundaram,
Aged 58 years, Working as Postman, Nagore,
Nagapattinam Division;
17. M. Robert Jayasingh Kennedy,
S/o. P. Muthiyan, Aged 56 years,
Working as Postman, Thirupoondi,
Nagapattinam Division;
18. S. Narayanan, S/o. R. Subramaniyan,
Aged 55 years, Working as Postman,
Nagapattinam HO,
Nagapattinam Division;
19. K. Bharathan, S/o. K. Krishnasamy,
Aged 58 years, Working as Postman,
Nagapattinam HPO,
Nagapattinam Division;
20. P. Durairaj, S/o. C. Palanivel,
Aged 59 years, Working as Postman,
Thevur SO, Nagapattinam Division;

21. G. Mugundhan, S/o. R. Ganapathy,
Aged 44 years, Working as Postal Assistant,
Kilvelur SO, Nagapattinam Division;
22. V. Marimuthu, S/o. K. Veerasamy,
Aged 58 years, Working as MTS,
Kilvelur, Nagapattinam Division;
23. P. Muthukumaran, S/o. Panchanthan,
Aged 54 years, Working as Postman,
Pulivalam SO, Nagapattinam Division;
24. S. Arivazhagan, S/o. V. Santhanakrishnan,
Aged 35 years, Working as Postman,
Nagapattinam,
Nagapattinam Division;
25. N. Masilamani, S/o. Namasivayam,
Aged 43 years, Working as Postal Assistant,
Office of SPM, Neravy,
Nagapattinam Division;
26. T. Jothimani, S/o. K. Thangavel,
Working as Sub Postmaster, Thalatheru SO,
Nagapattinam Division;
27. G. Ramesh, S/o. K. Ganesan,
Aged 57 years,
Working as Postman, Neravy,
Nagapattinam Division;
28. R. Sivasankar, S/o. P. Rajamanickam,
Aged 58 years, Working as Postman,
Adiyakkamangalam,
Nagapattinam Division;
29. M. Thiagarajan, S/o. D. Mohan,
Aged 42 years, Working as Postal Assistant,
Nagapattinam Divisional Office,
Nagapattinam Division.Applicants/Applicants
(By Advocate: Mr. P. Rajendran)

Versus

Union of India Rep. by
The Superintendent of Post Offices,
Nagapattinam Division,
Nagapattinam- 611 001.Respondent
(By Advocate: Mr. Su. Srinivasan)

ORAL ORDER

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

Heard. MA filed by the applicants seeking permission to join together to file a single OA is allowed.

2. The applicants have filed this OA seeking the following relief:-

"to call for the records relating to the impugned order of the respondent in Memo No. ASP/CAT/2014 dated at Nagapattinam 611 001 the 06.03.2018 and quash the same and direct the respondent to refrain from applying the New Pension Scheme (New Defined Contribution Pension Scheme) to them but to apply the Old Pension Scheme (Defined Benefit Pension Scheme) and count the service rendered in the post of GDS for the purpose of computing the qualifying service for Pension and grant them all consequential benefits and render justice."

3. The case of the applicants is that they were appointed as Extra Departmental Agent (later re-designated as GDS) before 1.1.2004 in the Department of Posts. After completion of long years of service, they were appointed in the regular establishment as Group D/Postman/MTS after 1.1.2004. It is submitted that as the applicants were absorbed in regular service after 1.1.2004, the new pension scheme which works on contribution basis had been applied to the applicants. 10% of basic pay plus Dearness Allowance is being deducted from their pay every month and they have been allotted PRAN (Permanent Retirement Account Number).

4. Learned counsel for the applicants contends that the applicants were not new entrants into Government service after 1.1.2004 but were holders of

civil posts prior to 1.1.2004. Therefore, the 'old pension scheme' would only be applicable to them. The new pension scheme is applicable only to those who entered government service for the first time after 1.1.2004. The applicants had earlier approached the Tribunal in OA 1530/2014 which was disposed of on 13.01.2017 with liberty to make a representation to the competent authority citing the relevant judicial precedents. The claim of the applicants has been rejected by the respondents by individual orders dated 06.3.2018 which are challenged in the instant O.A. seeking the aforesaid relief.

5. Mr. Su. Srinivasan takes notice for the respondents submits that the service rendered as GDS cannot be counted as the post does not come under pensionable service.

6. Learned counsel for the applicant submits that in a similar case in W.P. No. 26212 of 2011, Hon'ble Madras High Court, by an order dated 06.09.2012 directed payment of pension in respect of the applicant therein and, therefore, the applicants herein are also entitled to pension, being a similarly placed. However, the matter of eligibility of GDS to count the GDS service for the purpose of Pension under the CCS(Pension)Rules 1972 is pending before the Hon'ble Apex Court in SLPs No. 16767/2016 and 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.

7. I have considered the matter. This Tribunal in similar cases has disposed of the 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 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 the case of the applicants in the event of the law being finally settled in favour of persons similarly placed as them to count GDS services for pension and pass a fresh order within a period of three months thereafter."

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