

CENTRAL ADMINISTRATIVE TRIBUNAL
MADRAS BENCH

Dated the Thursday 28th day of March Two Thousand And Nineteen

PRESENT:

THE HON'BLE MR. R. RAMANUJAM, MEMBER (A)
THE HON'BLE MR. P. MADHAVAN, MEMBER (J)

OA. 736 of 2016

K. Ramaiah,
S/o. Kalappaiah,
Thattankonam,
Arumanaipost,
Kanyakumari District.

...Applicant

(By Advocate: M/s. V. Vijay Shankar)

Versus

The Union of India Rep. by its
Senior Superintendent of Post Offices,
Kanyakumari District,
Nagercoil.

...Respondents

(By Advocate: Mr. S. Nagarajan)

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 of the respondent in its No. NPS. Dlgs. dt. at Ngl- 629001 the dated 30.01.2016 and quash the same and consequently direct the respondent to grant full pension along with commutation, Gratuity, Earned Leave Encashment and other admissible terminal benefits to the applicant by counting his services from 14.12.1979 upto 31.02.2013 as qualifying service and pass such other order or orders as may be deemed fit and thus render justice."

2. The case of the applicant is that he was initially appointed as an Extra Departmental Delivery Agent (EDDA) on 14.12.1979 and continued as such for nearly 25 years. By an order dated 12.06.2004, he was granted appointment as a Postman and retired from service as such on attaining superannuation on 31.3.2013. It is submitted that as the applicant was appointed to regular service after 1.1.2004, the new pension scheme which works on contribution basis had been applied to the applicant and accordingly, 10% of basic pay plus Dearness Allowance is being deducted from his pay every month.

3. Learned counsel for the applicant contends that the applicant was not a new entrant into Government service after 1.1.2004 but was a holder of a civil post even prior to 1.1.2004. Therefore, the 'old pension scheme' would only be applicable to him. The new pension scheme is applicable only to those who entered government service for the first time after 1.1.2004.

4. Learned counsel for the applicant would further submit that the applicant is similarly placed as those in OA 749/2015 disposed of by the Principal Bench by an order dated 17.11.2016. As the Principal Bench had held that persons appointed as GDS were entitled to count their service as qualifying for pension, the applicant should also be granted the benefit as it was a judgment in rem. The applicant made a representation dated 28.12.2015 requesting the respondents to count his past service as EDDA with effect from 24.12.1979 till 12.06.2004 as qualifying service and to grant him pension, gratuity and other terminal benefits. The claim of the applicant was rejected by the respondents by impugned order dated 30.01.2016, which is challenged in the instant OA seeking the aforesaid relief.

4. Mr. S. Nagarajan, Learned Standing Counsel for the respondents submits that the service rendered as GDS could not be counted as the post did not come under pensionable service.

5. Learned counsel for the applicant, however, 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 applicant herein is 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.

6. We 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, we are of the view that this OA could also be disposed of with the following direction:

"The competent authority shall review the case of the applicant in the event of the law being finally settled in favour of persons similarly placed as him to count GDS services for pension and pass a fresh order within a period of three months thereafter."

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