

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. 428 of 2019

L. Devaraj,
S/o. Mr. Lakshmana Gounder,
Aged 71 years,
Residing at No. 22, Pillayar Koil Street,
Kakuppam Village, Poyyapakkam Post,
Villupuram Taluk,
Villupuram District- 605 602.

....Applicant

(By Advocate:Mr. P. Rajendran)

Versus

1. The Union of India Rep. by
The Chief Post Master General, Tamil Nadu Circle,
Chennai- 600 002;
2. The Senior Superintendent of Post Offices,
RMS, Trichy- 620 001.

...Respondents

(By Advocate: Mr. Su. Srinivasan)

ORAL ORDER

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

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

"to direct the respondents to refrain from applying the New Pension Scheme to the applicant but to apply the Old Pension Scheme and count the service rendered in the post of GDS for the purpose of computing the qualifying service for Pension as directed by the Principal Bench of this Hon'ble Tribunal in OA No. 749/2015 etc dated 17.11.2016 and render justice."

2. The case of the applicant is that he was initially appointed as Mazdoor on 04.10.1983 and thereafter worked as an Extra Departmental Agent from 10.03.1997 and retired from service as GDS on 23.3.2013. 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 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. He further relied on the judgment of the W.P. No. 2110/2014 dated 19.03.2014 in support of his claim. Since the representation of the applicant dated 13.04.2018 to the respondents is pending, he filed the instant OA seeking the aforesaid relief.

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

6. 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 dispose of his pending representation in accordance with the law to be laid down by the Hon'ble Apex Court in the pending cases.

7. 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 dispose of the case of the applicant in the event of the law being finally settled in favour of the persons similarly placed as him 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.

(P. MADHAVAN)
MEMBER (J)

(R. RAMANUJAM)
MEMBER (A)

28.03.2019

Asvs.