

CENTRAL ADMINISTRATIVE TRIBUNAL MADRAS BENCH

OA.No.365/2017

Dated Tuesday, the 23rd day of April, 2019

PRESENT

Hon'ble Mr.R.Ramanujam, Administrative Member

D.Chakkaravarti,
S/o.Dhanapal,
Kannabiran Koil Street,
West Cheyyur, Cheyyur Post &
Taluk, Kancheepuram 603 302. ... Applicant

By Advocate M/s.R.Malaichamy

vs

1. Union of India rep. by
The Chief Postmaster General,
Tamil Nadu Circle,
Anna Salai, Chennai 600 002.

2. Superintendent of Post Offices,
Chengalpattu Division,
Chengalpattu 603 001.

3.Senior Superintendent of Post Offices,
Chennai City South Division,
Chennai 600 017.

... Applicant

.. Respondents

By Advocate Dr.G.Krishnamurthy

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:

“ To direct the respondents to count the service rendered as Postman at Maraimalai Nagar SO from the date of joining on 30.05.2013 for seniority and other service benefits including retirement service benefits for which the applicant made a representation dated 20.11.2015 and

(ii)To pass such further orders as this Hon'ble Tribunal may deem fit and proper.”

2. It is submitted that the applicant, while working as GDS MC/MD applied for appointment as Postman through a Limited Departmental Competitive Examination (LDCE) for the vacancies of the year 2012. The LDCE was scheduled and conducted on 28.04.2013. The applicant was declared successful in the examination and was accordingly selected and appointed as Postman after due training.

3. The second respondent issued a notice dated 01.10.2013 stating that consequent on the revaluation of the answer papers, the applicant did not come within the zone of consideration and accordingly calling upon him to show cause why his appointment

should not be cancelled. The applicant filed OA 1380/2013 challenging the show cause notice.

4. In the meantime, the applicant was offered appointment in another SO by an order dated 24.02.2014. Thereafter, the OA was disposed of by an order dated 22.09.2015 with the observation that the applicant was working as Postman and accordingly nothing survived in the OA for adjudication. However, at the request of the counsel for the applicant, liberty was granted to the applicant to submit a representation to the competent authority for seniority. The applicant made Annexure A-8 representation dated 20.11.2015 in this regard and sought counting of the period from 30.05.2013 to 23.03.2014 for seniority and other service benefits including retirement service benefits. As no reply was received by the applicant, the applicant has filed this OA seeking the aforesaid relief.

5. Learned counsel for the applicant would submit that the show cause notice issued to the applicant was never pursued by the respondents and as such it became inoperative. The applicant was accommodated in another SO during the pendency of the OA 1380/2013 and accordingly it was disposed of with the observation

that nothing survived in the matter. The applicant was, however, given the liberty to submit a representation to the competent authority for seniority and other service benefits as there was no gap in service and the applicant had been working continuously since the time of his initial appointment on 30.05.2013. The applicant is entitled to all the service benefits accordingly including seniority, it is contended.

6. Learned counsel for the respondents would, however, submit that the applicant had been selected initially on the basis of an erroneous evaluation of the answer papers. On revaluation it was found that the applicant did not come within the zone of consideration and accordingly his appointment was to be cancelled. However, the respondents, taking a sympathetic view in favour of the wrongly selected candidates who had already undergone training and were serving as Postman in various SOs, decided to accommodate them against subsequent vacancies. The persons who were selected on the basis of revaluation were appointed in the vacancies of the year 2012. The applicant had been paid salary and other allowances for the period of service rendered by him as per the rules. However, he could not be allowed seniority over persons

who had been duly selected under the quota for GDS through LDCE. As for retirement benefits, it is submitted that the question of counting his service for the period from 30.05.2013 to 23.02.2014 as qualifying service for pension would not arise as the applicant does not come under the purview of the CCS Pension Rules, 1972. He is covered by the new pension scheme under which his contribution towards pension is matched by the contribution of the employer and as such no service benefit granted to him had been withdrawn.

7. Learned counsel for the applicant would, further, submit that persons similarly placed as the applicant had continued in their SOs and it was only a matter of chance that the applicant was accommodated in another SO. The others who were selected on the basis of the wrong evaluation previously had been granted consequent service benefits and, therefore, there would be no discrimination against the applicant.

8. I have considered the matter. It is not in dispute that the applicant was initially selected on the basis of an erroneous evaluation of the answer papers under the LDCE quota. Later on, when revaluation was done, it was found that the applicant did not

qualify for appointment. However, since he had already been allowed to undergo training and appointed as Postman, the respondents had taken a decision not to revert the applicant and other similarly placed persons to their substantive post of GDS. Since the applicant had been accommodated against subsequent vacancies, he cannot claim seniority over the persons who were duly selected. As such the claim for seniority is devoid of merits and is liable to be rejected.

9. It is also not in dispute that the applicant is not covered by the CCS Pension Rules, 1972 but by the new pension scheme. His terminal benefits under the scheme would be based on the balance available at credit in the applicant's account. The loss of seniority is unlikely to make a difference to pension as the applicant would have contributed from the date of his initial appointment and the respondents would have matched the contribution as per the provisions of the new pension scheme.

10. It is not clear what other service benefits the applicant is claiming in this OA. However, since it is alleged that persons similarly placed as the applicants who had not been transferred out the SO in which they had initially joined have been granted the

benefit of continuity of service for which there appears to be no supporting documentary evidence, I am of the view that this OA could be disposed of with a direction to the respondents to verify the applicant's claim in this regard and grant him the same service benefits as granted to similarly placed persons who were selected initially on the basis of a wrong evaluation and found not to qualify thereafter on revaluation.

11. OA is disposed of in the above terms. No costs.

**(R.RAMANUJAM)
MEMBER (A)
23.04.2019**

M.T.