

**CENTRAL ADMINISTRATIVE TRIBUNAL
CHENNAI BENCH**

O.A.No.515/2019

Dated Tuesday, the 9th day of April, 2019

PRESENT

Hon'ble Mr.R.Ramanujam, Administrative Member

V.Murugaiyan,
S/o.N.Viswalingam,
No.58, Jagadhambal Illam,
MKM Road,Thanjavur 613 001.

... Applicant

By Advocate M/s R.Malaichamy

Vs

1. Union of India,
Rep., by the Secretary,
Ministry of Communications & IT,
Department of Posts, Dak Bhavan,
Sansad Marg, New Delhi 110 001.

2.The Chief Postmaster General,
Tamil Nadu Circle, Anna Salai,
Chennai 600 002.

3.The Postmaster General,
Central Region (TN),
Tiruchirappalli 620 001.

4.Senior Superintendent of Post Offices,
Thanjavur Division,
Thanjavur 613 001.

... Respondents

By Advocate Mr.Su.Srinivasan

(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:

“1.To direct the respondents to count the period of year of vacancy 2003 & 2004 till the applicant was appointed as MTS on 08.06.2005 and also count the GDS service along with regular service for grant of pension under old pension scheme, further,

2.Direct the respondents to revise and refix the retirement service benefits of the applicant including pension and to pay the arrears of such benefits to the applicant, and;

3.To pass such further or other orders as this Hon'ble Tribunal may deem fit and proper in the circumstance of the case.”

2. It is submitted that the applicant was appointed as ED BPM on 19.06.1976. He was appointed as Multi Tasking Staff (MTS) on seniority quota w.e.f 08.06.2005 for the vacancy year 2003 & 2004. Thereafter he earned promotion to the post of Postman on 18.12.2008 and retired from service on attaining the age of superannuation on 31.08.2015. The applicant has rendered service of more than 29 years as GDS besides regular service as MTS and Postman for more than 10 years.

3. The applicant along with eight other similarly situated persons approached this Tribunal in OA 1384/2014 to count the GDS service for the purpose of pension under the 'Old Pension Scheme'. The OA was disposed of on 13.01.2017. However, the respondents rejected the claim of the applicants therein by an order dated 23.02.2018 stating that Writ

Petitions (WP Nos.832, 834 & 835 of 2018) were pending before the Hon'ble Delhi High Court and further action could only be taken after the outcome of the above writ petitions was known. He made a representation dated 15.09.2018 requesting to be extended the benefits of CCS (Pension) Rules 1972 on the basis of year of vacancy against which he was appointed and also for counting the service rendered in GDS cadre, which is still pending for consideration.

3. It is contended that the applicant was appointed as Postman against a vacancy that arose in the year 2003 & 2004 as revealed by Annexure A-1 Office Memo dated 08.06.2005. This Tribunal had in several similar cases directed the respondents to grant pension to the applicants under the CCS Pension Rules, 1972. The order of the Tribunal had also been upheld by the Hon'ble Madras High Court in some cases, it is submitted.

4. Learned counsel for the applicant relies on the orders of this Tribunal in OA 1419/2014 dated 19.08.2016, OA 1508/2014 dated 23.08.2016, OA 1078/2013 dated 21.09.2016, OA 1040/2015 dated 09.09.2016, OA 1939/2014 dated 31.03.2017 & OA 1306/2014 dated 16.06.2017 granting relief to similarly placed persons. He also relies on the order of the Hon'ble Madras High Court in WP No.21193/2015 dated 01.03.2017 wherein pension was directed to be granted to a person who had been appointed against a vacancy of the year 2002-2003.

5. Mr.Su.Srinivasan, SCGSC, who takes notice on behalf of the respondents, however, submits that the law on the subject had not attained finality as presently SLPs No.16767/2016 & 18460/2015 are pending in the Hon'ble Apex Court on whether persons appointed against pre-2004 vacancies could be granted pension under the CCS (Pension) Rules as also whether persons who had served for long periods as GDS before induction into Government service could be allowed to count their services as GDS for pension.

6. We have considered the submissions. This Tribunal has disposed of similar 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 who had been 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 consider the representation of the applicant dated 15.09.2018, 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 and pass a reasoned and speaking order, within a period of two months thereafter. Similar action shall be taken in the

event of SLPs in respect of counting of GDS service for the purpose of pension being decided in favour of the persons similarly placed as the applicants”.

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

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

M.T.

09.04.2019