

CENTRAL ADMINISTRATIVE TRIBUNAL
MADRAS BENCH

Dated the Thursday 3rd day of January Two Thousand And Nineteen

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

O.A. 310/612/2018

N. Gurumurthy,
S/o. Natarajan,
No.1/65A, Main Road,
Arunapuram,
Oddampattu Post,
Vrapandi S.O.,
Villuprauma District- 605 758.

....Applicant

(By Advocate: M/s. R. Malaichamy)

Versus

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 Superintendent of Post Offices,
Vriddhachalam Division,
Vriddhachalam- 606 001.

...Respondents

(By Advocate: Dr. G. Krishnamurthy)

ORAL ORDER

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

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

"1. To call for the records of the 3rd respondent pertaining to his order made in No. C51/Genl./Delgs dated 30.01.2018 and set aside the same, consequent to;

2. direct the respondents to treat the service rendered in GDS cadre by the applicant as qualifying service along with regular service and also to treat the year of vacancy against which the applicant was appointed as Postman for the purpose of grant of pension and other retirement service benefits to the applicant under old pension scheme within the purview of CCS (Pension) Rules 1972."

2. It is submitted that the applicant was aggrieved by Annexure A-5 order dt. 30.01.2018 by which his request for grant of pension under the CCS (Pension) Rules, 1972 was rejected on the ground that his initial appointment in the Government service was with effect from 13.3.2004 only ie after 01.01.2004 and, therefore, the New Pension Scheme (NPS) would be applicable to him. Learned counsel for the applicant would argue that in similar cases where the persons concerned had been appointed against 2002 or 2003 vacancies, the Tribunal had directed the authorities to grant pension under the CCS (Pension) Rules, 1972 as it was not the applicants' fault that their appointment was delayed beyond 01.01.2004. It is further submitted that the orders of this Tribunal had been upheld by the Hon'ble Madras High Court. However, SLPs thereagainst are pending in the Hon'ble Apex Court.

3. Learned counsel for the applicant informs that the matter of eligibility of GDS to count the GDS service for the purpose of Pension under the CCS (Pension) Rules, 1972 is also pending before the Hon'ble Apex Court in SLP no. 16767/2016 and SLP no. 18460/2015. Accordingly, the applicant would be satisfied if the respondents are directed to review their impugned order in accordance with the law to be laid down by the Hon'ble Apex Court in the pending cases.

4. Learned counsel for the respondents would, however, submit that the applicant had been appointed into Government service after 01.01.2004 and, therefore, he would only be covered by the NPS. He would refer to the order of the Hon'ble Madras High Court in W.P. No. 13500/2016 dated 17.10.2016 by which Rule 6 of the Gramin Dak Sevak (Conduct & Employment) Rules 2001 denying pension to GDS was upheld and a distinction was made between holders of Civil Posts and persons in Central Government Service. Accordingly, the applicant would have no claim under the CCS (Pension) Rules 1972, it is contended.

5. I have considered the submissions. From the impugned order, it is not clear whether the applicant was selected against a 2001 vacancy or post - 2004 vacancy. If it is a 2001 vacancy, the ratio of previous orders passed by this Tribunal would hold unless reversed by the Hon'ble Apex Court. In such circumstances, I am of the view that this OA could be disposed of with the following direction:-

"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, the competent authority shall review the impugned order dt. 30.01.2018 within a period of two months thereafter and pass fresh orders. The authority shall identify clearly whether the applicant was appointed against a 2001 vacancy or a post 2004 vacancy and if it is the former, he shall be treated similar to persons who had been appointed against pre-2004 vacancies. Similar action shall be taken in the event of the SLPs cited supra being decided in favour of persons similarly placed as the applicant in respect of the claim to count service rendered as GDS as qualifying for pension."

6. OA is disposed of. No costs.

(R. RAMANUJAM)
MEMBER (A)

03.01.2019

Asvs.