

CENTRAL ADMINISTRATIVE TRIBUNAL
MADRAS BENCH

Dated the Thursday 6th day of June Two Thousand And Nineteen

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

M.A. No. 294/2019
In &
OA.310/691/2019

1. M. Durai, S/o. R. Manikavasagam,
Aged 55 years, Working as MTS, HRO,
RMS 'T' Division,
Trichy- 620 001;
2. G. Manoharan, S/o. T.V. Ganesan,
Aged 55 years, Working as MTS, HRO,
RMS 'T' Division,
Trichy- 620 001;
3. N. Dhakshinamoorthy, S/o. A. Natarajan,
Aged 59 years, Working as MTS, HRO,
RMS 'T' Division,
Trichy- 620 001;
4. M. Thirugnanamurthy, S/o. A. Malaiali Muthuraja,
Aged 64 years, retired GDS,SRO,
RMS 'T' Division,
Thanjavur;
5. A. Durairajan, S/o.A. Adaikkalam,
Aged 52 years, Working as MTS,
RMS 'T' Division,
Villupuram;
6. C. Ravi, S/o. G. Chinnaiyan,
Aged 56 years, Working as MTS, SRO,
RMS 'T' Division,
Villupuram;
7. A. Charles, S/o. Arulanatham,
Aged 62 years, Retired as MTS, HRO,
RMS 'T' Division,
Trichy;

ASVS

8. G. Gunasekaran, S/o. S. Gopalakrishnan,
Aged 55 years,
Working as MTS, SRO,
RMS 'T' Division, Villupuram;
9. R. Ganesan, S/o. K. Ramadoss,
Aged 53 years, Working as MTS, SRO,
RMS 'T' Division, Villupuram;
10. D. Neelamegam, S/o. K. Devaraj,
Aged 56 years, Working as MTS, SRO,
RMS 'T' Division, Villupuram;
11. S. Sheikh Thilavar, S/o. S. Sheikh Ismail,
Aged 56 years, Working as MTS,
SRO, RMS 'T' Division, Villupuram.

....Applicants/Applicants

(By Advocate: M/s. P. Rajendran)

Versus

1. The Union of India Rep. by
The Senior Superintendent
RMS 'T' Division,
Tiruchirapalli- 620 001.

...Respondent/Respondent

(By Advocate: Mr. M. Kishore Kumar)

ORAL ORDER

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

Heard. MA filed by the applicants seeking permission to join together to file a single OA is allowed.

2. Applicants have filed this OA seeking the following relief:-

"to call for the records relating to the impugned order of the Respondent in Memo No. B2/OA660/2018/MD dated at Tiruchirapalli 620 001 the 31.12.2018 and quash the same and direct the respondents to refrain from applying the New Pension Scheme (New Defined Contribution Pension Scheme) to them but to apply the Old Pension Scheme (Defined Benefit Pension Scheme) and count the service rendered in the post of GDS for the purpose of computing the qualifying service for pension and grant them all consequential benefits and render justice."

3. The case of the applicants is that they were appointed as Gramin Dak Sevaks (erstwhile Extra Departmental Agents) prior to 1.1.2004. After rendering several years of service, they were appointed in the regular establishment as Group-D/Postman/MTS after 1.1.2004. It is submitted that as some of the applicants were absorbed into regular service after 1.1.2004, the new pension scheme which works on contribution basis had been applied to them and accordingly, 10% of basic pay plus Dearness Allowance is being deducted from their pay every month.

4. Learned counsel for the applicants contends that the applicants were not new entrants into Government service after 1.1.2004 but were holders of a civil post even prior to 1.1.2004. Therefore, the 'old pension scheme' would

only be applicable to them. The new pension scheme is applicable only to those who entered government service for the first time after 1.1.2004.

5. Learned counsel for the applicants would further submit that the applicants were 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. Accordingly, the applicants approached this Tribunal earlier by filing OA 660/2018 which was disposed of by order dated 08.06.2018. Pursuant to the directions of the Tribunal, the applicants made individual representations dated 24/25/26/27.07.2018 requesting the respondents to count their past service as qualifying service and to grant them pension, gratuity and other terminal benefits. The claim of the applicants were rejected by the respondents by individual impugned orders dated 31.12.2018, which are challenged in the instant OA seeking the aforesaid relief.

6. Mr. M. Kishore Kumar, 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.

7. Learned counsel for the applicants, 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 applicants herein are also entitled to pension,

being 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 applicants 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.

8. I 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, I am of the view that this OA could also be disposed of with the following direction:

"The competent authority shall review the cases of the applicants in the event of the law being finally settled in favour of persons similarly placed as them to count service rendered as GDS for pension and pass a fresh order within a period of three months thereafter."

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