

**CENTRAL ADMINISTRATIVE TRIBUNAL
CHENNAI BENCH**

MA/310/00303/2019 in & OA/310/00701/2019

Dated Monday the 10th day of June Two Thousand Nineteen

CORAM : HON'BLE MR. R. RAMANUJAM, Member (A)

1.R.Kannan
2.P.Sakthivel
3.G.Nallathambi
4.C.Ramachandran
5.R.Chengalvarayan
6.K.Jothikumaran
7.S.Ravichandran
8.G.Narasareddy
9.S.Aroon PrasadApplicants

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.The Superintendent of Post Offices,
Cuddalore Division,
Cuddalore 607 001.

....Respondents

By Advocate Mr. Su. Srinivasan

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

Heard. MA filed by the applicants for joining together to file a single OA is allowed.

2. The applicants have filed this OA seeking the following reliefs :

"(i)To call for the records of the 4th respondent pertaining to his orders which is made in No.B2/Postman Dlgs/2019 and No.B2/Postman Dlgs/2018 dated 08.04.2019(A-8) and set aside the same; consequent to

(ii)Direct the respondents to count the period of year of vacancies 2002, 2003 & 2004 till the applicants were appointed as Postman and also count the GDS service along with regular service for grant of pension under old pension scheme, further,

(iii)Direct the 4th respondent not to recover any amount from the salary of the applicants towards New Pension Scheme and thereby to refund the amount recovered from their salary towards such Scheme, also to

(iv)Direct the respondents to open GPF Account instead of CPF Account to the applicants, and;

(v)To pass such further or other orders as this Hon'ble Tribunal may deem fit and proper in the circumstances of the case."

3. It is submitted that the applicants were aggrieved by Annexure A8 orders dt. 08.04.2019 by which their representations for grant of pension under the CCS (Pension) Rules, 1972 were rejected on the ground that they were appointed after 01.01.2004 and governed by the New Pension Scheme. The applicants were appointed as Postman after emerging successful in the examinations for appointment/promotion to the cadre of Postman which were held after 01.01.2004 for the vacancies pertaining to the years 2002, 2003-2004. They were, therefore, entitled to the benefit of judicial precedents in similar cases.

4. Learned counsel for the applicant would argue that in a similar case where the persons concerned had been appointed against a 2002 or 2003 vacancy, 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.

5. Learned counsel for the applicant would also add that 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 SLP no. 16767/2016 and SLP no. 18460/2015. Accordingly, the applicant 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.

6. Mr. Su. Srinivasan, SCGSC takes notice for the respondents and submits that in terms of the law laid down already by the Hon'ble Apex Court, the appointment of GDS as Postman through competitive examination is to be treated as Direct Recruitment and not promotion. In any case, GDS are not entitled to pension under the CCS (Pension) Rules, 1972 as a prayer in this regard to set aside the Rule 6 of the GDS (Conduct & Engagement) Rules had been rejected by the Hon'ble Madras High Court in WP 13500/2016 by an order dt. 17.10.2016.

5. I have considered the matter. A similar case was disposed of by this Tribunal in OA 1226/2016 by order dated 04.09.2018. It was directed that 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 therein and pass fresh orders.

6. In the above circumstances, I am of the view that this OA could also 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 Annexure A8 impugned orders dt. 08.04.2019 within a period of two months thereafter and pass fresh orders. Similar action shall be taken in the event of the SLPs cited supra in respect of counting GDS service for pension being decided in favour of persons similarly placed as the applicants."

7. OA is disposed of at the admission stage. No costs.

(R. Ramanujam)
Member(A)
10.06.2019

SKSI