

**CENTRAL ADMINISTRATIVE TRIBUNAL
CHENNAI BENCH**

O.A.No.709/2019

Dated Tuesday, the 11th day of June, 2019

PRESENT

Hon'ble Mr.R.Ramanujam, Administrative Member

D.Gopi,
S/o.S.Delhibatcha,
No.107, Arunkrishna Nagar,
88, Veppampattu,
Tiruvallur District 602 024.

....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 110001.

2.The Chief Postmaster General,
Tamil Nadu Circle,Anna Salai,
Chennai 600002.

3.The Postmaster General,
Chennai City Region,Chennai 600002.

4.The Superintendent of Post Offices,
Chennai City North Division,
Chennai 600008.

....Respondents

By Advocate Mr. K.Kannan

(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 call for the records of the 4th respondent pertaining to his order made in No.B5/GDS/Court dlgs/2019 dated 25.04.2019 and set aside the same, consequent to

2. Direct the respondents to induct the applicant into statutory pension scheme under CCS (Pension) Rules, 1972 notionally treating the applicant as he has been appointed as Postman from the date of occurrence of vacancy in the year 2003 and 2004, also by counting the entire GDS service, along with regular service for the limited purpose of grant of pension under CCS (Pension) Rules 1972; further,

3. direct the respondents to open GPF Account instead of CPF Account and

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

2. It is submitted that the applicant entered into the Postal Department as a Mazdoor on 28.12.1984 and was appointed as GDS MD (Gramin Dak Sevak Mail Deliverer) on 02.07.1996. Thereafter, through a departmental competitive examination, he was appointed to the post of Postman for the vacancy of the years 2003 & 2004 and he joined the post on 18.08.2005.

3. The applicant made a representation dated 25.06.2018 to the respondents requesting them to treat the year of vacancy against which he was appointed as Postman as the relevant date and also to count the entire service rendered in GDS cadre for the purpose of pension under the 'old pension scheme'. When there was no reply, he approached this

Tribunal in OA 1716/2018 which was disposed of by order dated 31.12.2018 directing the respondents to consider the representation of applicant dated 25.06.2018 in accordance with law after ascertaining whether the applicant had been appointed against 2003 vacancy and pass orders. However, the 4th respondent rejected the claim of the applicant by an order dated 25.04.2019 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.

4. It is contended that the applicant was appointed as a Postman against a vacancy that arose in the year 2003 & 2004 as revealed by Annexure A-1 Office Memo dated 02.08.2005. 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.

5. 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.

6. Mr.K.Kannan, Additional Central Government Standing Counsel, 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.

7. I 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 is directed to ascertain whether the applicant was appointed against 2003 or 2004 vacancy and if he was appointed against a 2003 vacancy, to review their decision conveyed by order dated 25.04.2019, 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 persons similarly placed as the applicants”.

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

(R.RAMANUJAM)
MEMBER (A)

M.T.

11.06.2019