

CENTRAL ADMINISTRATIVE TRIBUNAL
MADRAS BENCH

Dated the Friday 7th day of December Two Thousand And Eighteen

PRESENT:

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

THE HON'BLE MR. P. MADHAVAN, MEMBER (J)

O.A. 310/1602/2018

M. Sundalaiyandi,
No.3/95, Sivanthiapuram,
South Vijayanarayanam,
Vijayanarayanam- 627 118.

....Applicant

(By Advocate: M/s. S. Arun)

Versus

1. Union of India Rep. by
Chief Postmaster General,
Office of the Chief Postmaster General,
Chennai- 600 002;
2. The Senior Superintendent of Post Offices,
Tirunelveli Division,
Tirunelveli- 627 002.

...Respondents

(By Advocate: Mr.Su. Srinivasan)

ORAL ORDER

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

Heard. Applicant has filed this OA seeking the following relief:-

“to set aside Memo No. C/GDS DLGS/15-16 dated 29.02.2016 passed by the 2nd respondent and consequently direct the respondents to grant full superannuation pension to him under Old Pension Scheme in terms of CCS (Pension) Rules, 1972 after considering both his GDS and MTS service with arrears and all attendant benefits including interest at the rate of 12% per annum on arrears.”

2. It is submitted that the applicant was covered by the CCS (Pension) Rules 1972 in terms of his date of appointment in Group -D in 1998. However, he was short of the requisite qualifying service for pension and, therefore, he is not being paid pension though otherwise eligible. The Hon'ble Madras High Court in a similar case had held that the service rendered as GDS could not be wished away and should be counted for the purpose of determining the qualifying service under CCS (Pension) Rules. It is submitted that similar cases disposed of by other High Courts also are now before the Hon'ble Apex Court in Special Leave Petition Nos. 13042/2014 along with CA. No. 8979/2014 (XII) SLP (C) No. 979/2015 (XII) CA No. 9886/2014 (XII) SLP(C)...CCNo..20557-20558/2015 (XII) CA No. 2825/2016 (XII) C.A. No.5008/2016 (XVI) SLP(C)No. 16767/2016 (XVI) (I.A. No. 117124/2017- Clarification/Direction), C.A. No. 8379/2016 (XVI), C.A. No. 10355/2016 (IV-A), C.A. No. 10801/2016 (XVI) Diary No(s) 13454/2018 (XII) (IA No. 55727/2018- Condonation of delay in filing) SLP(C) no. 16615/2018 (XVI).

3. It is further submitted that C.A. No. 8674/2015 is a Civil Appeal that was filed against the order passed by the Madras High Court. As the law on the subject would attain finality only after the Hon'ble Supreme Court passes orders in the aforesaid cases, the applicant would be satisfied if the respondents are directed to review their

decision to deny pension to the applicant under the CCS (Pension) Rules 1972, in the event of persons similarly placed as the applicant being successful in the aforesaid SLPs.

4. Mr. Su. Srinivasan, Learned Standing Counsel takes notices for the respondents and submits that Hon'ble High Court of Madras by an order dated 17.10.2016 in W.P. 13500/2016 rejected the claim of similarly placed persons and, therefore, the same would apply on the applicant. As such there was no cause of action for the applicant to seek review of respondents' decision in his case.

5. We have considered the submission of the rival parties. We are of the view that since the matter regarding eligibility or otherwise to count the GDS service for pension after appointment as Group-D in regular government service is alleged to be before the Hon'ble Apex Court in the aforesaid cases, this OA could be disposed of with the following direction:- "In the event of the Hon'ble Supreme Court upholding the law in favour of persons similarly placed as the applicant in the aforesaid SLPs/C.As, the applicant's case shall also be reviewed and orders passed by the respondents in accordance with the same principles, if they are similarly placed.

6. OA is disposed of with the above direction. No costs.

(P. MADHAVAN)
MEMBER (J)

(R. RAMANUJAM)
MEMBER (A)

07.12.2018

Asvs.