

**CENTRAL ADMINISTRATIVE TRIBUNAL
CHENNAI BENCH**

O.A.No.1079/2019

Dated Tuesday, the 13th day of August, 2019

PRESENT

Hon'ble Mr.T.Jacob, Administrative Member

S.Swaminathan,

S/o.Sowrirajan,

111, Sakkilianpadugai,

Thukkachi BO, Nachiyarkoil SO,

PIN 612 602 ..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 – 110 001.

2. The Chief Postmaster General

Tamil Nadu Circle

Anna Salai, Chennai – 600 002.

3. The Postmaster General

Central Region (TN)

Tiruchirapalli – 620 001.

4. The Superintendent of Post Offices

Kumbakonam Division

Kumbakonam – 612 001. ..Respondents

By Advocate Mr. Su. Srinivasan

(Order: Pronounced by Hon'ble Mr.T.Jacob, Member(A))

Heard. The applicant has filed this OA under Section 19 of the Administrative Tribunals Act, 1985 seeking the following reliefs:

“1. To declare Rule 6 of GDS (C&E) Rules, 2011 as null and void and violative of Articles 14, 16 & 21 of Constitution of India

2. To direct the respondents to grant pension to the applicant under the provisions of CCS(Pension) Rules, 1972 for the service rendered as GDS for about 35 years; and

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

2. It is submitted that the applicant was appointed as an Extra Departmental Packer now called as Gramin Dak Sevak (GDS). He rendered more than 35 years of service as GDS and superannuated. The grievance of the applicant is that his services as GDS had not been considered for the purpose of determining his pension under the CCS (Pension) Rules, 1972. The applicant seeks to rely on the order of the Principal Bench in OA 749/2015 dt. 17.11.2016. The claim of the applicant is that as similarly placed persons had been granted relief therein, the applicant is also entitled to such relief.

3. Learned counsel for the respondents would submit that the order of the Principal Bench in the above case had been challenged in the Hon'ble Delhi High Court where the matter is still pending. However, the order of the Principal Bench was per incuriam in as much as the Hon'ble Madras High Court had already upheld the validity of the GDS (C&E) Rules 2011

by order dated 17.10.2016 in WP 13500/2016 and as such the OA is liable to be dismissed.

4. Learned counsel for the applicant would, however, submit that similar cases had been disposed of by this Tribunal directing the respondents to reconsider the case of the applicants therein in the event of the law on the subject finally being declared in favour of the applicants similarly placed and, therefore, a similar order may be passed in this case also. He would cite the order passed in OA 1139/2017 and batch dated 28.11.2018 and OA No.1093/2017 dated 11.12.2018 in this regard.

5. Keeping in view the above, this OA is disposed of with the following direction:

“Respondents are directed to reconsider the claim of the applicant for pension under CCS (Pension) Rules 1972 in the event of the law being finally settled in favour of persons similarly placed as the applicant herein with regard to his entitlement for grant of pension under the said rules.”

**(T.JACOB)
MEMBER (A)**

M.T. 13.08.2019