

CENTRAL ADMINISTRATIVE TRIBUNAL,
ERNAKULAM BENCH

Original Application No. 180/00491/2015

Thursday, this the 20th day of June, 2019

CORAM:

Hon'ble Mr. E.K. Bharat Bhushan, Administrative Member
Hon'ble Mr. Ashish Kalia, Judicial Member

C.P. Reghukumar, S/o. C.V. Prabhakaran, aged 60 years,
 Retired MTS, Kavalam PO, Department of Posts, Alappuzha-688 506,
 residing at Olickal House, Kavalam PO, Alappuzha -
 688 506. **Applicant**

(By Advocate : Mr. V. Sajith Kumar)

V e r s u s

1. Union of India, represented by the Secretary to Government, Department of Posts, Ministry of Communications, Government of India, New Delhi – 110 011.
2. The Chief Postmaster General, Kerala Circle, Trivandrum-695 033.
3. The Superintendent of Post Offices, Alappuzha Postal Division, Alappuzha – 688 012. **Respondents**

(By Advocate : Mr. S. Ramesh, ACGSC)

This application having been heard on 12.06.2019 the Tribunal on 20.06.2019 delivered the following:

O R D E R

Hon'ble Mr. Ashish Kalia, Judicial Member –

The relief claimed by the applicant are as under:

- “(i) To quash Annexure A1.
- (ii) To direct the respondents to grant notional service to the applicant counting his provisional service with effect from 4.9.2001 or at least with effect from 1.1.2002 for the purpose of qualifying service for pension and to grant him all consequential benefits including pension under CCS Pension Rules.

(iii) Grant such other reliefs as maybe prayed for and as the court may deem fit to grant, and

(iv) Grant the cost of this Original Application.”

2. The brief facts of the case are that the applicant who was working as GDS at Allappuzha with effect from 26.10.1977 was engaged as Group-D on ad hoc basis w.e.f. 2.7.2001 in various offices and continued as MTS/Group-D till his retirement on 31.3.2015. He had filed OA No. 446 of 2002 for regularization to the post on which he was working on ad hoc basis. The OA was closed on 15.7.2004 recording the submission of the respondents that action to fill up two posts of Group-D was in the process and the applicant if found eligible and comes under the zone of consideration, would be considered for absorption. In consequent to direction in another OA No. 312 of 2008 the respondents issued circular directing the Divisional heads to fill up the vacancies with effect from the date of occurrence of vacancies. The applicant was assigned regularization against 2006 unreserved vacancy. Feeling aggrieved by this, the applicant made representation that he should be given regularization from the year 2002 when his willingness was sought as one Late V. Karthikeyan opted out from Group-D post and options were invited from other senior most GDSSs. Ultimately applicant was made ineligible for statutory pension.

3. Notices were issued to the respondents. Mr. S. Ramesh, ACGSC appeared on behalf of the respondents and filed a detailed reply statement contending that pursuance to direction in OA No. 312 of 2008 and other

similar cases, appointments were made as a time time measure for the vacancies from 2004 to 2009 in the year 2010. The appointment was given notionally from the date of occurrence of vacancies from the retrospective dates. There were two vacancies in the year 2002 out of which one vacancy was for unreserved. The senior most GDS Shri Karthikeyan expired on 7.7.2006 and the vacancy was notionally filled up and all the benefits were given to his surviving wife and compassionate appointment was also given to his son as GDS and therefore, the claim of the applicant against 2002 vacancy is untenable. Hence, OA is liable to be dismissed.

4. Heard Shri V. Sajithkumar, learned counsel for the applicant and learned ACGSC appearing for the respondents. Perused the record and appreciated the legal submissions rendered.

5. The applicant is seeking counting of his provisional service as MTS/Group-D from 1.1.2002 on notional basis for the purpose of fulfilling the qualifying service for grant of pension under CCS (Pension) Rules, 1972. In support of his case, learned counsel for the applicant cited an order of this Tribunal titled as ***K. Haridasan v. Union of India & Ors.*** – OA No. 79/2014 in which one of us had rendered the order. The facts of the above said case are distinguishable as there was no dispute from the side of the respondents that the engagement of the applicant in OA No. 79 of 2014 from 1.4.2002 till his regular selection as Postman was uninterrupted and his service was against the vacancy of Postman/Group-D selected from GDS on the basis of their seniority and willingness which is covered by Rule 13

of CCS (Pension) Rules, 1972.

6. But in the case of the applicant facts are distinguishable as first of all there was only one vacancy available in unreserved category and applicant is not the senior most GDS available. Shri V. Karthikeyan, GDS MD was the senior most candidate for the Group-D post and he has been notionally given the benefits of regularization on the lone vacancy in the year 2002 through his legal heir. The next vacancy available was in the year 2006 which was given to the applicant herein. Against one vacancy in the year 2002 two persons cannot be regularized. If the applicant has case contrary to this he should have challenged the same by making Shri V. Karthikeyan or his legal heir a party in the OA in accordance with law. In fact the applicant's case is not that he is senior to Shri V. Karthikeyan. The applicant has approached this Tribunal after lapse of five years seeking regularization notionally from 2002 which is highly belated by time.

7. In view of the facts and circumstances of the case, we are of the opinion that the present Original Application is devoid of merit and hence, liable to be dismissed. We order accordingly. No order as to costs.

(ASHISH KALIA)
JUDICIAL MEMBER

(E.K. BHARAT BHUSHAN)
ADMINISTRATIVE MEMBER

“SA”

Original Application No. 180/00491/2015**APPLICANT'S ANNEXURES**

Annexure A1 - True copy of the order No. B2/Staff/Misc. dated 19.12.2014 issued by the 3rd respondent.

Annexure A2 - True copy of the circular No. CO/LC/OA/32/08 dated 8.7.2010 issued by the 2nd respondent.

Annexure A3 - True copy of the memo No. B2/Group D dated 17.7.2010 issued on behalf of the 3rd respondent.

Annexure A4 - True copy of the representation dated 19.7.2014 submitted by the applicant to the Regional PMG.

Annexure A5 - True copy of the charge report dated 5.9.2001 of applicant.

Annexure A6 - True copy of the application dated 21.12.2015 submitted by the applicant to the 3rd respondent.

Annexure A7 - True copy of the letter dated 19.1.2016 issued by the 3rd respondent.

RESPONDENTS' ANNEXURES

Annexure R1 - Copy of DPC minutes dated 17.7.2010.

Annexure R2 - True copy of letter No. ST/80-5/03 dated 11.2.2005.

Annexure R3 - Copy of minutes dated 17.2.2005.

Annexure R4 - True copy of order dated 15.7.2004 in OA 446/2002.

Annexure R5 - True copy of affidavit filed in CP(C) 95/2009 in OA 352/2008.

Annexure R6 - True copy of order dated 28.09.2011 in OA 145/2010.

Annexure R7 - True copy of order dated 18.8.2015 in OA 553/2012.

Annexure R8 - True copy of order dated 31.5.2016 in OA 135/2013.

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