

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH: HYDERABAD**

Original Application No.21/902/2017

Date of Order: 18.06.2019

Between:

U S Parashurama Rao, S/o. U. Sethumadhava Rao,
Age: 62 years, Occ: Retired Postman, Kurnool HO,
R/o. 57/66/D-1, Ranga Reddy Gate, Kurnool – 518 001.

... Applicant

And

1. Union of India, Rep. by Secretary,
Director General, Department of Posts,
Dak Bhavan, New Delhi – 110 001.
2. The Senior Superintendent of Post Offices,
Kurnool Division.
3. The Sub Post Master, Adoni Sub Division,
Kurnool District, Kurnool – 518 001.
4. The Sub Post Master Halahari, SO,
Adoni Sub Division, Kurnool Division.

... Respondents

Counsel for the Applicant ... Mr.R. Yogender Singh

Counsel for the Respondents ... Mr. P. Krishna, Addl. CGSC

CORAM:

Hon'ble Mr. B.V. Sudhakar, Member (Admn.)

ORAL ORDER

{As per Hon'ble Mr. B.V. Sudhakar, Member (Admn.) }

2. OA is filed for fixation of pension by including service rendered as E.D Agent.
3. Applicant joined the respondents organisation as E.D (Extra Departmental) Agent on 1.5.1972. Thereafter, he was placed in the RTP

(Reserved Trained Pool) in 1982 and on 29.1.1988 was selected as regular Postman. Applicant retired on 12.1.2016 and his retirement benefits were worked out from the date of his joining as Postman, instead of counting his service from the date of joining the respondents organisation as E.D. on 1.5.1972. Aggrieved over the same, present OA has been filed.

4. Contentions of the applicant are that the Hon'ble Kerala and Chandigarh Benches of this Tribunal in OA 546/2012 & 719/2011 respectively, have held that the service rendered as ED agent has to be considered for fixing pension and pensionary benefits.

5. Respondents in their reply statement state that the applicant's date of birth being 1.7.1956, he was due to retire on 30.6.2016. Applicant was promoted as regular Postman on 29.1.1988 and accordingly, taking this date as the date of joining regular service, Pension and Pensionary benefits were worked out and paid, even with a revision effected consequent to implementation of 7th CPC.

6. Heard both the counsel and perused and the material papers placed on record.

7. I) It is true that the Hon'ble Kerala and Chandigarh Benches of this Tribunal have delivered verdicts directing to consider some part of the service rendered as ED Agent for fixing Pension and Pensionary benefits. However, while doing a little research on the issue, it came to light that a similar issue fell for consideration by the Hon'ble Supreme Court, wherein it was ordered as under:

The Apex Court in its last order dated 23-10-2018 in SLP No. 13042/2014 had stated as under:-

In the Compilation of Judgments filed on behalf of the respondents, there is an order of the High Court of Karnataka, Circuit Bench at Gulbarga, dated 17.6.2011 and also an order of the Central Administrative Tribunal, Principal Bench, dated 17.11.2016. In the order dated 17.11.2016 passed by the Central Administrative Tribunal, Principal Bench, while dealing with a similar matter, the learned Tribunal had issued the following directions:

“(a) For all Gramin Dak Sevaks, who have been absorbed as regular Group ‘D’ staff, the period spent as Gramin Dak Sevak will be counted in toto for the purpose of pensionary benefits. (b) Pension will be granted under the provisions of CCS (Pension) Rules, 1972 to all Gramin Dak Sevaks, who retire as Gramin Dak Sevak without absorption as regular Group ‘D’ staff, but the period to be counted for the purpose of pension will be 5/8th of the period spent as Gramin Dak Sevak. Rule 6 will accordingly be amended. (c) The Gramin Dak Sevaks (Conduct and Engagement) Rules, 2011 are held to be valid except Rule 6, as stated above. (d) The claim of Gramin Dak Sevaks for parity with regular employees regarding pay and allowances and other benefits available to regular employees, stands rejected.”

Before proceeding any further, we would like to be apprised by Mr. Atmaram N.S. Nadkarni, learned Additional Solicitor General of India as to whether the orders of the Karnataka High Court and the Central Administrative Tribunal, referred to above, have been subjected to challenge by the Union of India before the appropriate forum and if so, the consequences thereof.

Mr. Nadkarni is also requested to inform the Court as to whether in the absence of any challenge, the directions issued, particularly those by the Central Administrative Tribunal by its order dated 17.11.2016, have been implemented by the Union of India.

Let the matter be listed after four weeks, by which time the information shall be furnished before this Court.

5. As per the computer generated report, the above case stands posted for further hearing on 09-07-2019. As such, it would be appropriate that this case be considered by the administration as per the decision by the Apex Court as and when the same is decided.”

II) Tribunal expects the learned counsel to assist the Tribunal with the latest developments on an issue under adjudication. It needs no reiteration that the views of the higher judicial forums are of paramount importance to arrive at a conclusion in regard to the issue under contest. Tribunal has to necessarily frame its finding in wavelength with the directions therein. Lest, judicial discipline would be a casualty. It should not, at any cost.

III) Hence, as Judicial propriety demands that all parties concerned need to await the pronouncement on the issue, the OA is disposed of by directing the applicant to pursue relief depending on the decision of the Hon'ble Supreme Court. With the above direction, the OA is disposed of with no order as to costs.

**(B.V. SUDHAKAR)
MEMBER (ADMN.)**

Dated, the 18th day of June, 2019

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