

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

ORIGINAL APPLICATION NO.170/00113/2019

DATED THIS THE 18TH DAY OF OCTOBER 2019

HON'BLE DR. K.B. SURESH, MEMBER (J)

HON'BLE SHRI CV. SANKAR, MEMBER (A)

MS.Kumar,
S/o MH.Mayanna,
Aged 54 years, working as
MTS, Postal Training Centre,
Mysuru.570010.
Residing at
No.342/1, D Subbaiah road,
Chamaraj Mohalla,
Mysuru.570024

...Applicant

(By Shri AR.Holla..... Advocate)

Vs.

1. Union of India,
By Secretary,
Department of Posts,
Dak Bhavan,
New Delhi – 110 001.

2.The Chief Post Master General,
Karnataka Circle,
Bengaluru 560 001

3.The Director,
Postal Training Centre,
Mysuru.570010.Respondents.

(By Shri Vishnu Bhat, Sr. Panel Counsel)

O R D E R (ORAL)

HON'BLE DR. K.B. SURESH, MEMBER(J)

1. We heard both the counsels in great detail. Both the counsels admit that it is covered by annexure-A3 No.01-07/2016-SPB-I, GOI, M/o communications & IT, department of Posts dated 22.7.2016 which we quote:-

"No.01-07/2016-SPB-I
Government of India
Ministry of Communications & IT
Department of Posts
Personnel Division
Dak Bhavan, Sansad Marg.,
New Delhi dated 22 July 2016

1. All CPMsG
2. All PMsG
3. Director, Rafi Ahmed Kidwai National Postal Academy, Ghaziabad
4. All Directors, PTC
5. All Directors, Postal Accounts.
6. Controller, Foreign Posts, Mumbai
7. Heads of all other Administrative Offices.

Subject: Casual Labourers with temporary status — clarification regarding contribution to GPF and Pension under the Old Pension Scheme.

Sir / Madam,

Department of Posts had circulated details of a scheme viz., Casual Labourers (Grant of Temporary Status and Regularisation) Scheme vide letter No.45-95/87-SPB.I dated 12.4.1991 for granting temporary status to Casual Labourers, who were in employment as on 29.11.89. subject to fulfilment of certain conditions. Further clarifications on the subject were issued by the Directorate as under:

- a) Directorate vide letter No.66-52/92-SPB.I dated 1 11.95 extended the benefit of the above scheme to also Casual Labourers recruited after 29.11.89 and up to 10.9.93.
- b) Directorate vide letter No.66-9/91-SPB.I1 dated 30.11.92 issued clarifications that Casual Labourers with temporary status, who completes three years of service are to be treated at par with temporary Group D employees and are entitled to various benefits viz.. leave, holidays, CGEIS, GPF, Medical aid, LTC etc. and counting of temporary service after regularization for retirement benefits.
- c) The Scheme for grant of temporary status and regularization of casual labourers formulated vide Letter No.45-98/87-SPB.I dated 12.4.91 was modified as under vide letter No.45-6/2005-SPB-I dated 2.9.2005 (in consultation with DOPT and in line with DOPT OM No.49014/1/2004-Estt (C) dated 26.4.04) in the light of introduction of New Pension Scheme in respect of persons appointed to the Central Government service on or after 1.1.2004:
 - (i) As the new pension scheme is based on defined contributions, the length of qualifying service for the purpose of retirement benefits has lost its relevance. No credit of casual service, as specified in para 6 of the said scheme shall be available to the casual labourers on their regularization against Group D posts on or after 1.1.04.
 - (ii)As there is no provision of GPF in the new pension scheme, it will not serve any useful purpose to continue deductions towards GPF from the existing casual employees, in terms of para 8 of the scheme for grant of temporary status. Therefore, no further deductions towards GPF shall be effected from the casual Labourers w.e.f 1.1.2004 onwards and the amount lying in their GPF accounts, including deductions made after 1.1.2004 shall be paid to them.

2. However, since DOPT OM No.49014/1/2004-Estt(C) dated 26.4.04 (cited in para 1(c) above) has been quashed by various benches of CAT/High Courts who have decided that the scheme could not be modified retrospectively and that SLPs filed in the Hon'ble supreme court in various cases have been dismissed by the Apex court, DOPT vide its OM No.49014/2/2014-Estt(c) dated 26.2.16 has issued clarifications regarding contribution to GPF and Pension under old Pension Scheme.

3. Therefore, in line with the instructions issued by DOP&T vide OM.No.49014/2/2014-Estt(c) dated 26.2.16 on the subject following clarifications are hereby issued in respect of Casual Labourers in the postal Department in supersession of Directorate letter No.45-6/2005-SPB-I dated 2.9.2005:

- a) *Casual Labourers who had been granted temporary status under the scheme, and have completed 3 years of continuous service after that, are entitled to contribute to the GPF.*
- b) *50% of the service rendered under temporary status would be counted for the purpose of retirement benefits in respect of those casual labourers who have been regularised in terms of the provisions of Department of Post Scheme for regularisation of Casual Labourers.*
- c) *It is emphasised that the benefit of temporary status is available only to those casual labourers who were in employment as on 10.9.93 and were otherwise eligible for it. No grant of temporary status is permissible after that date. The employees erroneously granted temporary status between 10.9.93 and the date of Hon'ble Supreme court Judgement in Union of India Vs. Mohal Pal 2002 delivered on 29.4.2002, will however deemed to be have been covered under the scheme dated 12.4.91 of Department of Posts.*
- d) *circles may identify cases where temporary status have been granted wrongly to those not covered under the Department of posts scheme dated 12.4.91 and fix responsibility for the same.*

Yours faithfully

*sd/-
(G.Rajeev)
Director (SPN)*

Copy to:

- 1.CGM (PLI) / CGM (BD&M) / JS&FA / DDG(PAF).
- 2.All DDsG / Directors / ADsG.
- 3.SO (PE.I) / SO(PE.II) / So(Pension) / SO(PAP) / SO(GDS) / so(sPB II).
- 4.Guard File (SPB.I).
- 5.All recognized Unions / Associations as per standard list.
- 6.Director, CEPT, Mysore for uploading on the Indiapost website.

*(G. Rajeev)
Director (SPN)"*

2. In paragraph 4 of the reply, the respondents say that they are reconsidering the issue. Even though they would say that NPS was introduced w.e.f 1.1.2004, the applicant's regular service commenced from 1.9.2008. But, then according to annexure-A3 applicant had been granted temporary status wef. 1.1.1995. Therefore, the artificial creation of this new barrier will not create any impediment against the applicant.

Therefore, it is declared that the applicant will be eligible for the benefit from 1.1.1995 depending on the credentials of annexure-A3.

3. OA is, therefore, allowed. Benefits to be extended to the applicant within next 2 months. No order as to costs.

(CV. SANKAR)
MEMBER(A)

(DR. K.B. SURESH)
MEMBER (J)

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Annexures referred to by the applicant in OA.No.113/2019

Annexure A-1: Copy of order dated 19.7.1995.

Annexure A-2: Copy of order dated 7.9.2010

Annexure- A-3.A copy of circular dated 22.7.2016

Annexure- A-4.A copy of applicant's representation dated 18.7 .2018

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