

CENTRAL ADMINISTRATIVE TRIBUNAL,
ERNAKULAM BENCH

Original Application No. 180/00814/2018

Wednesday, this the 30th day of October, 2019

CORAM:

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

<p>1. Rajagopalan Nair, aged 65 years, S/o. Shivarama Pillai, Geethanjali, Valiyara, Vellanadu PO, Thiruvananthapuram- 695 543.</p> <p>2. R. Nagappan, aged 66 years, S/o. Raman, Cherikonam, Kizhakumkara, Mitraniketan PO, Thiruvananthapuram- 695 543.</p>	<p>..... Applicants</p>
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(By Advocate : Mr. B. Harish Kumar)

V e r s u s

<p>1. The Union of India, represented by its Secretary, Ministry of Communications, New Delhi – 110 011.</p> <p>2. The Superintendent of Post Offices, Thiruvananthapuram South Division, Thiruvananthapuram – 695 001.</p>	<p>..... Respondents</p>
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(By Advocate : Mr. T.C. Krishna, Sr. PCGC)

This application having been heard on 25.09.2019 the Tribunal on 30.10.2019 delivered the following:

ORDER

Hon'ble Mr. Ashish Kalia, Judicial Member –

The relief claimed by the applicant are as under:

“(i) Declare that the inaction of the respondents to sanction pension to the applicants is illegal and that the applicants are entitled to pension in the light of the law espoused in Vinod Saxena's case and Annexure A3 order.

(ii) Direct the respondents to sanction and disburse the pension the applicants after reckoning the entire service as GDS and to disburse the arrears of pension with effect from the date of superannuation.

(iii) Issue such other further reliefs as are necessary in the interest of justice.”

2. The applicants are aggrieved by the refusal of the respondents to deny them pension on the ground that Rule 6 of of GDS (Conduct & Engagement) Rules, 2011 interdicts grant of pension to them. The first applicant worked from 12.2.1980 as GDS in Vellanadu Sub Post Office, Trivandrum and he superannuated from service on attaining the age of 65 years on 10.6.2018. He had served for 38 years and 3 months. The second applicant served as GDS in Mithranikethan Post Office, Trivandrum from 27.2.1980. He was discharged from service on attaining the age of 65 years on 2.11.2017 and served for 37 years and 9 months. They preferred representations for pension but there was no response from the respondents. In a similar case in OA No. 35 of 2011 similar relief of the applicant therein was considered by this Tribunal and the OA was disposed of. However, since the applicants have been denied the benefits that was granted to the applicant in OA No. 35 of 2011, the present Original Application has been filed.

3. Notices were issued to the respondents. They entered appearance through Shri T.C. Krishna, Sr. PCGC who filed a reply statement refuting the contentions made by the applicants in the OA. They submitted that the first applicant rendered service as GDS for 38 years and 3 months and the second applicant as GDS for 37 years and 9 months. Both of them were discharged from engagement on attaining the age of 65 years. Rule 6 of

GDS (Conduct and Engagement) Rules, 2011 clearly stipulates that GDS are not entitled for any pension. Moreover, the apex court in SLP No. 17035-36 of 2013 (Civil Appeal No. 13675-76 of 2015) held that the GDS are governed by a separate set of rules and the provisions of the rules governing the GDS stipulate that GDS are not entitled to pension. Further with regard to the contention of the applicants regarding a similar case in OA No. 35 of 2011 the respondents submitted that the said contention is misleading and not correct. OA No. 35 of 2011 is no way connected with the present OA as the applicant therein was aggrieved, over the rejection of his claim for pension under the CCS (Pension) Rules, 1972 on the ground that he has not completed full 10 years of service which is the minimum qualifying service for pension, though he had rendered 23 years of service as EDA followed by regular service of 9 years 7 months and 22 days of service as Group-D employee. The facts of the present case are not similar to the facts in OA No. 35 of 2011. Therefore, the applicants cannot claim the benefits so granted in OA No. 35 of 2011 as they are not similarly situated. The applicants have no regular service as Group-D. Further the apex court in SLP No. 17035-36 of 2013 (Civil Appeal No. 13675-76 of 2015) upheld the stand of the respondents that the GDS are not governed by the provisions pertaining to casual labourers and are not entitled to pension but would be entitled to ex-gratia gratuity and such of the payments as may be decided by the Government from time to time. The respondents also submitted that the decisions relied on by the applicants are not applicable to the facts and circumstances of the present case. Hence, they pray for dismissing the OA.

4. Heard Shri B. Harish Kumar, learned counsel appearing for the applicant and Mr. T.C. Krishna, Sr. PCGC learned counsel appearing for the respondents. Perused the record.

5. The short point to be considered in the present case is whether the applicants are entitled for pension under CCS (Pension) Rules, 1972 ?

6. The admitted position of the case are that the first applicant worked from 12.2.1980 as GDS in Vellanadu Sub Post Office, Trivandrum and was discharged from service on attaining the age of 65 years on 10.6.2018. He had served for 38 years and 3 months with the Department. The second applicant also served as GDS in Mithranikethan Post Office, Trivandrum from 27.2.1980. He was discharged from service on attaining the age of 65 years on 2.11.2017 and served for 37 years and 9 months. The rule applicable to the applicants are Department of Posts, Gramin Dak Sevaks (Conduct & Engagement) Rules, 2011. Rule 6 of the above Rules clearly stipulates as under:

“6. Pension

The Sevaks shall not be entitled to any pension. However, they shall be entitled to ex-gratia gratuity or any other payment as may be decided by the Government from time to time.”

Thus, Rule 6 clearly bars the GDS from any pension and they are only entitled to ex-gratia gratuity or any other payment as may be decided by the Government from time to time. We find that the apex court in SLP No. 17035-36 of 2013 (Civil Appeal No. 13675-76 of 2015) held that the GDS are governed by a separate set of rules and the provisions of the rules

governing the GDS stipulate that GDS are not entitled to pension. Further in the same judgment the stand of the respondents was upheld that the GDS are not governed by the provisions pertaining to casual labourers. Hence, we do not find any reason to interfere in the matter.

7. As regards the similar matters relied upon by the applicants in OA No. 35 of 2011 we find that OA No. 35 of 2011 is no way connected with the present case of the applicants, as the applicant therein was aggrieved over the rejection of his claim for pension under the CCS (Pension) Rules, 1972 on the ground that he has not completed full 10 years of service which is the minimum qualifying service for pension, though he had rendered 23 years of service as EDA followed by regular service of 9 years 7 months and 22 days of service as Group-D employee. In the present case the applicants have no regular service as Group D. Therefore, the facts of the present case are not similar to the facts in OA No. 35 of 2011. Further in OA No. 1264/2001 decided by the Madras Bench of the Tribunal, the issue was regarding the inaction on the part of the respondents to release the applicant therein the minimum pension by granting notional service in the cadre of Postman with effect from the date of occurrence of vacancy or in the alternative by granting weightage to the GDS service as he is short of 10 years service by 9 months for claiming minimum pension. The applicants in the present case are only GDS who rendered their entire service as GDS and were discharged from engagement on attaining the age of 65 years as GDS itself. Therefore, this case is also not applicable to the applicants' case.

8. In view of the above, we do not find any merit in the OA. Accordingly, the OA is dismissed. No order as to costs.

(ASHISH KALIA)
JUDICIAL MEMBER

(E.K. BHARAT BHUSHAN)
ADMINISTRATIVE MEMBER

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APPLICANTS' ANNEXURES

Annexure A1 – True copy of the certificate issued to the applicant on 10.6.2018.

Annexure A2 – True copy of the certificate issued to the applicant dated 2.11.2017.

Annexure A3 – True copy of order in OA No. 35/2011 of this Hon'ble Tribunal dated 30.5.2011.

RESPONDENTS' ANNEXURES

Annexure R1 – True copy of judgment of Supreme Court in SLP No. 17035-36 of 2013 (Civil Appeal No. 13675-76 of 2015).

Annexure R2 – True copy of the order of Central Administrative Tribunal dated 18.3.2014 in OA No. 1191/2012.

Annexure R3 – True copy of the order of Central Administrative Tribunal dated 5.8.2014 in OA No. 151/2013.

Annexure R4 – True copy of notification of Ministry of Home Affairs SRO 609 dated 28.2.1957.

Annexure R5 – True copy of judgment dated 8.3.2019 in WP 5305/2018.

Annexure R6 – True copy of order dated 28.1.2019 in OA 179/2016.

Annexure R7 – True copy of common order dated 28.2.2019 in OA 29/2017 & connected cases.

Annexure R8 – True copy of judgment dated 15.3.2019 of the Hon'ble Apex Court in CA No. 3150/2019.

Annexure R9 – True copy of judgment of Supreme Court in Y. Najithamol & Ors. v. Soumya S.D. & Ors., dated 12.8.2016 in CA No. 90 of 2015.