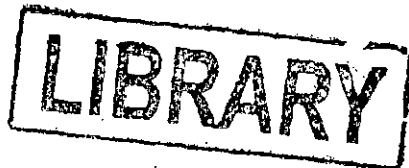


CENTRAL ADMINISTRATIVE TRIBUNAL
KOLKATA BENCH, KOLKATA



No. O.A. 1708 of 2018
M.A. 844 of 2018

Date of order: 25.11.2019

Present : Hon'ble Ms. Bidisha Banerjee, Judicial Member
Hon'ble Dr. Nandita Chatterjee, Administrative Member



1. Sri Amitava Bera,
Son of Sri Nemai Chandra Bera,
Working as Postal Asstt. at Serampore H.O.,
Residing at : Vill. + P.O. : - Kelera,
Dist. : Hooghly, Pin - 712 410.
2. Sri Kartic Chandra Kundu,
Son of Sri Shankar Kundu,
Working as Postal Asstt.,
Under South Hooghly Division, Serampore,
Residing at : Vill. + Post :- Rajgolahat Deypara,
Dist. : Hooghly, Pin - 712 408.
3. Sri Tapan Kumar Paramanik,
Son of Sri Bivuti Kar Paramanik,
Working as Postal Assistant,
South Hooghly Division
& residing at Vill + Post - Noapara,
Via Khalisani,
Dist.: Hooghly,
Pin Code No. : 712 138.
4. Sri Tapan Kumar Santra,
Son of Late Ramchandra Santra,
Working as Postal Assistant,
And residing at : Vill. + Post :- Jarura,
Via Khalisani,
Dist. : Hooghly, Pin Code No. : 712 138.
5. Sri Pradip Kumar Adak,
Son of S. Adak,
Working as OS/Chandannagore/Sub Divn.,
Chandannagore,
And residing at : Vill - Shidarambati,
P.O. - Balarambati,
Dist. Hooghly, Pin - 712 409.

..... Applicants.

Versus

1. Union of India;
through the Secretary,
Ministry of Communication,

[Signature]

Dak Bhawan,
New Delhi - 110 001.

2. The Chief Post Master General,
Yogayog Bhawan,
Kolkata - 700 012.
3. The Post Master General,
South Bengal Region,
Kolkata - 700 012.
4. The Sr. Superintendent of Post Office,
South Hooghly Division,
Serampore,
Pin Code No. : 712 201.

..... Respondents.

For the Applicants : Mr. N. Roy, Counsel

For the Respondents : Mr. T.K. Chatterjee, Counsel



ORDER (Oral)

Per Dr. Nandita Chatterjee, Administrative Member:

The applicant has approached the Tribunal under Section 19 of the Administrative Tribunals Act, 1985 in second stage litigation praying for the following relief:-

"(a) To issue direction upon the respondents to consider the applicants' case for old pension scheme forthwith.

(b) To quash cancel and/or set aside the impugned orders dtd 09.08.18 and 29.08.18 forthwith.

(c) To issue further direction upon the respondents to consider the case for old pension scheme where the same similar person, namely Sri Mrinal Chakraborty has been considered for old pension scheme and where the said Chakraborty has joined after 1.1.04, according to that, the applicants are also same similar persons and their case may be considered for old pension scheme forthwith.

(d) To issue further direction upon the respondents according to Hon'ble High Court's judgment which is WPCT No. 114 of 2015 along-with Hon'ble Apex Court's judgment the applicants' case for old pension scheme, may be considered forthwith.

(e) Any other order or orders or further order or orders as deem fit and proper under the circumstances of the case.

(f) To produce Connected Departmental Record at the time of Hearing.

hbm

(g) Leave may be granted to file joint application under Rule 4(5) (a) of CAT/Procedure, 1987."

2. Heard both Ld. Counsel, examined pleadings and annexed documents. No rejoinder is on record.

3. The applicants have approached the Tribunal praying for liberty for joint prosecution of the matter under Rule 4(5)(a) of Central Administrative Tribunal (Procedure) Rules, 1987. On being satisfied that they share a common interest and are pursuing a common cause of action, such prayer is allowed, and, M.A. bearing No. 844 of 2018 praying for joint prosecution under Rule 4(5)(a) of Central Administrative Tribunal (Procedure) Rules, 1987, is disposed of accordingly.



4. The submissions of the applicants, as made through their Ld. Counsel, is that, the applicants are posted in the Postman cadre after having qualified in an examination held in 2002. The results were declared on 11.2.2004 and their posting orders were issued on 5.3.2004. That, thereafter, they were sent for theoretical training and provisionally appointed as temporary Postman on 9.3.2004, 10.3.2004 and 24.6.2004 respectively. The applicants, thereafter, were placed within the purview of the New Pension Scheme as they were all purportedly appointed after 1.1.2004.

The applicants had earlier approached this Tribunal in O.A. No. 954 of 2018, and, in compliance to the directions of this Tribunal dated 18.7.2018, the respondent authorities had issued a speaking order in which they had rejected their plea for considering them under the Old Pension Scheme while reaffirming that the applicants would be subject to the New Pension Scheme effective from 1.1.2004.

hah

Ld. Counsel for the applicants would, however, submit that the applicants would seek liberty to prefer a comprehensive representation to the authorities citing judicial ratio in their support..

5. Ld. Counsel for the respondents does not object to consideration of such comprehensive representation in accordance with law and subject to the principle that the applicants are similarly circumstanced as the applicants in the matters cited in support.

6. Accordingly, without entering into the merits of the matter, and, with the consent of the parties, we allow the applicants to withdraw this O.A. and grant them liberty to prefer comprehensive representations supported by judicial pronouncements and relevant Office Memorandum to the competent respondent authority within a period of 4 weeks from the date of receipt of a copy of this order. In the event such representations are preferred, the competent authority shall decide on the same, in accordance with law, and upon examination of the issue as to whether the applicants herein are similarly circumstanced with the applicants in the judicial proceedings cited in support. The authority shall issue a reasoned and speaking order within a period of 12 weeks from the date of receipt of such representations and convey such decision to the applicants forthwith thereafter.

7. With these directions, the O.A. is disposed of. No costs.

(Dr. Nandita Chatterjee)
Administrative Member

(Bidisha Banerjee)
Judicial Member

SP