

(2021) 06 CAT CK 0053

In the Central Administrative Tribunal

Case No : Original Application No. 180, 00310 Of 2019

K.Gopinathan Nair

APPELLANT

Vs

Union Of India & Others

RESPONDENT

Date of Decision : 01-06-2021

Acts Referred:

Citation : (2021) 06 CAT CK 0053

Hon'ble Judges : P. Madhavan, Member (J); K.V .Eapen, Member (A)

Bench : Division Bench

Advocate : Vishnu S Chempazhanthiyil, Anil Ravi

Final Decision : Disposed Of

Judgement

P.Madhavan, Judicial Member

1. This Original Application has been filed by the applicant seeking the following reliefs:

1. Declare that the applicant is entitled to be governed by the Pension Scheme in force prior to 1.1.2004 and count applicant's service rendered as a

Gramin Dak Sevak along with his service as Group D, in terms of the order rendered by the Principal Bench of the Hon'ble Central Administrative

Tribunal in its order dated 17.11.2016 in O.A No.749/2015. Or in the alternative;

2. Direct the respondents to bring the applicant under the pension scheme in force prior to 1.1.2004, in view of the judgment as at Annexure A1 as per

which half of applicant's GDS service has to be counted for qualifying service and since applicant had GDS service prior to 1.1.2004, he is entitled to

be governed under the pension scheme in force prior to 1.1.2004.

3. Any other further relief or order as this Hon'ble Tribunal may deem fit and proper to meet the ends of justice.

4. Award the cost of these proceedings.

2. The applicant in this case was appointed as Multi Tasking Staff on 7.7.2005. The applicant was earlier working as GDS MD, Pothencode under

respondent no.3 from 20.7.1981 onwards. Thereafter, he was appointed as M.T.S for the vacancy year of 2003, but he was appointed only on

7.7.2005. Hence the applicant came under the New Pension Scheme. According to the applicant, he is now being governed by the New Pension

Rules. He was actually appointed for the vacancy of the year 2003. There cannot be any dispute that he was working as GDS MD from 1981

onwards. According to him, the Hon'ble Central Administrative Tribunal, Principal Bench, in its judgment dated 17.11.2016 (in O.A No.749/2015 and

connected cases), had categorically directed that in respect of all GDS who have been absorbed as regular Group D Staff, the period spent as GDS

will be counted in toto for the purpose of pensionary benefits. He mainly relies on this judgment.

3. The respondents appeared through their counsel and filed a detailed reply statement denying the reliefs claimed by the applicant. According to them,

none of the reliefs sought by the applicant is tenable.

4. When the matter came up for hearing, counsel for the applicant had filed a memo stating that this Tribunal has earlier disposed of a similar matter

on 5.3.2021 (O.A No.311/2019). According to him, the latest decision of the Hon'ble Supreme Court in Union of India v. Gandiba Behera in Civil

Appeal No.8497/2019 is applicable to this case also. So he wants to give a representation in the light of the decision of the Hon'ble Supreme Court and

he is ready to give a representation to the Government for relaxation of the conditions so that he will also become eligible.

5. We have gone through the pleadings and reply statement filed by the respondents. It appears that the Hon'ble Supreme Court in Union of India v.

Gandiba Behera in Civil Appeal No.8497/2019 has laid down that the service rendered as GDS cannot be added to the service of Postman for the

service rendered as M.T.S. In this case, the applicant had entered the Department as GDS MD and that service cannot be tagged with the service as

M.T.S. The Hon'ble Supreme Court has categorically stated that it is for the parties to consider whether the Rules has to be relaxed or not. In view of

the dictum laid down by the Hon'ble Supreme Court, there is not much to discuss

regarding the merit of this case. Since the applicant is interested in giving a detailed representation to the respondents, we hereby direct the applicant to file a detailed representation regarding his grievances to the Competent Authority and the Competent Authority will consider the said representation and pass a speaking order regarding his eligibility etc within a period of three months from the date of receipt of such representation.

6. The Original Application is disposed of accordingly. No costs.