
(2022) 08 CAT CK 0026

In the Central Administrative Tribunal

Case No : Original Application No. 180, 00506 Of 2019

P. Anil Kumar, MTS, SRO Shornur & Others

APPELLANT

Vs

Union Of India & Others

RESPONDENT

Date of Decision : 25-08-2022

Acts Referred:

Administrative Tribunals Act, 1985 — Section 19

Citation : (2022) 08 CAT CK 0026

Hon'ble Judges : K. Haripal, Member (J)

Bench : Single Bench

Advocate : Vishnu S Chempazhanthiyil, O.M. Shalina

Final Decision : Dismissed

Judgement

K.Haripal, Member J

1. This is an application filed under Section 19 of the Administrative Tribunals Act by four former employees, who were initially engaged as Casual Labourers in RMS and later appointed as GDS in RMS from 04.11.2000, 01.04.1995, 04.11.2000 and 27.09.1999 respectively. According to them, on account of the delay in filling up of the vacancy, they were appointed as MTS after 01.01.2004. The Principal Bench of this Tribunal in the order dated 17.11.2016 in O.A.No.749/2015 and connected cases directed that GDSs, who have been absorbed as Regular Group B staff, are entitled to count their prior service for the purpose of granting pensionary benefits. All the applicants had commenced service prior to 01.01.2004. Therefore, it is only just and fair that the benefits of Pension Scheme that existed prior to 01.01.2004 be extended to them, for which, based on Annexure-A1 order of the Principal Bench of the Tribunal, Annexure-A2 series representations were given to the 2nd respondent, but the same have not been considered yet. According to the applicants, they are entitled to get benefits of the declaration made in Annexure-A1 order and therefore, seek declaration to the effect that they are entitled to be governed by the pension scheme in force prior to 01.01.2004, and count the services

rendered as GDS along with service of Group D/MTS. Alternatively, they seek directions to the respondents to bring the applicants under the Pension Scheme in force prior to 01.01.2004.

2. The 3rd respondent filed reply on behalf of all the respondents challenging the very maintainability of the application. According to him, Annexure-A1 order of the Principal Bench has been challenged before the Hon'ble Delhi High Court. Moreover, there is no delay in the appointment of the applicants. Again, the Hon'ble Apex Court in Annexure-A3 order has ruled that GDSs are governed by separate set of Rules and that they are not entitled to get pension as claimed. Referring to Annexure-R2 order of the Hon'ble Madras High Court, he has pointed out that the GDSs are outside the Civil Service of the Union, that they cannot be equated on par with Central Government employees. Thus the very application is being sought to be dismissed.

3. I heard the learned counsel for the applicants as well as the learned Standing Counsel for the respondents.

4. There is no dispute that the applicants had commenced service as Casual Labourers and later appointed as GDS as claimed by them on 04.11.2000, 01.04.1995, 04.11.2000 and 27.09.1999 respectively. A similar question as to whether persons similarly placed are entitled to claim their prior service for the purpose of reckoning pension had come up for consideration before the Principal Bench of this Tribunal. They claim that if the prior service is added to their credit, they would have commenced service prior to 01.01.2004 and they would have entitled to get the benefits of the Old Pension Scheme, which was in force prior to 01.01.2004. In this connection, they relied on Annexure-A1 order of the Principal Bench of this Tribunal and in order to get the benefit of the same, they moved Annexure-A2 series representations before the 2nd respondent, which were not considered.

5. After hearing the learned counsel on both sides, I have no doubt that the applicants are not entitled to get any relief as claimed by them. Annexure-R3 order of the Hon'ble Apex Court indicates that on identical facts when the Tribunal had passed orders in favour of similarly placed extra-departmental employees of the Postal Department, which was approved by the Hon'ble High Court as well, the Apex Court did not uphold it. When the Union of India took up the matter in appeal, the Apex Court set aside the findings holding that the Tribunal and High Court ought not to have passed such an order. The Hon'ble Apex Court also added that the matter pertains to policy and involves financial implications.

6. Here, reliance has been placed on Annexure- A1 order of the Principal Bench of the Tribunal, which is under challenge before the Delhi High Court. In the light of Annexure-R3 order of the Apex Court, in all probability, such an order cannot stand scrutiny.

7. I have also come across an order of this Tribunal dated 15.07.2022 in

O.A.531/2019 relying on the decision of the Hon'ble Apex Court in Union of India and Others v. Gandiba Behera, where this Tribunal found that the petitioner therein, who was similarly placed, was not entitled to get his prior service reckoned for the purpose of calculating pension. Thus, that O.A. was dismissed.

Taking into account all these aspects, there cannot be any doubt that the applicants are not entitled to get any relief in their favour. The application is devoid of merits and is dismissed. No costs.

Dated this the 25th August,2022