

(2019) 03 CAT CK 0168

In the Central Administrative Tribunal

Case No : Original Application No. 310, 00338 Of 2019

S. Vasudevan

APPELLANT

Vs

Union Of India And Ors

RESPONDENT

Date of Decision : 22-03-2019

Acts Referred:

Citation : (2019) 03 CAT CK 0168

Hon'ble Judges : P. Madhavan, J; T. Jacob, J

Bench : Division Bench

Advocate : R. Malaichamy, G. Krishnamurthy

Final Decision : Disposed Off

Judgement

1. The applicant has filed this OA seeking the following relief:-

"To direct the respondents to count the period of year of vacancy against which he was appointed as Postman and also to count the entire service rendered in GDS cadre along with regular service and thereby to treat his service under Old Pension Scheme and to open GPF Account after closing CPF Account; also to, Direct the respondents to refund the amount to the applicant which were recovered from the applicant's pay and allowances towards new pension scheme; and, To pass such further or other orders as this Tribunal may deem fit and proper in the circumstances of the case."

2. Learned counsel for the applicant submits that the applicant initially entered as GDS MD (Gramin Dak Sevak Mail Deliverer) in the Department of Posts on 11.9.1991 and later he was selected and appointed to the cadre of Postman for the vacancy year 2003 by order dated 03.9.2004. He claim pension under the Old Pension Scheme by taking into account the service rendered in GDS since he entered into service before 1.1.2004. However the respondents have applied New Pension Scheme to him. The request of the applicant dated 15.6.2018 in this regard to the respondents is still pending for consideration. Aggrieved, he has filed this OA seeking the above mentioned relief.

3. Learned counsel for the applicant produces a copy of the order of this Tribunal in OA 1067/2018 dated 24.12.2018 and submits that the instant matter is identical and, therefore, the applicant would be satisfied if a similar order is passed in this case.

4. Dr.G.Krishnamurthy takes notice for the respondents and he has no objection.

5. A perusal of the order of this Tribunal in OA 1067/2018 would show that the very same issue had been dealt with. The relevant portion of the said order is reproduced as under:-

"2. Learned counsel for the applicant would submit that the applicant sought the aforesaid reliefs on two grounds; (I) that she was entitled to count the services rendered as GDS for the purpose of pension under the CCS (Pension) Rules 1972 in terms of the order of the Principal Bench of this Tribunal in O.A.No.749/2015 and batch decided on 17.11.2016 and (ii) that she was appointed to regular government service against a pre-2004 vacancy and as the delay in filling up the vacancy was not attributable to the applicant, the respondents could not hold their own lapses in failing to make timely recruitment against the applicant and deny her the benefits that would have accrued to her under the CCS (Pension) Rules, but for such delay.

3. It is further submitted that the order of the Principal Bench cited above had been challenged before the Hon'ble Delhi High Court where the matter is still pending. This Tribunal had granted relief on the second ground in some cases which had also been upheld by the Hon'ble Madras High Court. However, SLP No.16767/2016 has been filed before the Hon'ble Apex Court, and as such, the law on the subject is expected to be laid down finally by the Hon'ble Supreme Court.

4. No reply has been filed by the respondents. Nor is the counsel for the respondents present. However, similar matters have been considered and disposed of by this Tribunal in the presence of the counsel for the official respondents and in the light of such submission. Accordingly, I deem it appropriate to dispose of this OA with a direction to the respondents to review the impugned order dated 09.11.07.2018 in the event of the law being finally decided in favour of persons similarly placed as the applicant in the aforesaid cases and pass appropriate orders within three months from such an event."

6. Since the OA on hand is identical to the one cited supra, the present OA is also disposed of with the following directions without expressing any views:-

"The respondents are directed to finally dispose of the claim of the applicant in the event of the law being finally decided in favour of persons similarly placed as the applicant in the aforesaid case and pass appropriate orders within three months from such an event."

7. OA is disposed off at the admission stage.