



WEB COPY

BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT

DATED: 10.02.2017

CORAM:

THE HONOURABLE MR.JUSTICE R.SUBBIAH

AND

THE HONOURABLE MRS.JUSTICE J.NISHA BANU

W.P.[MD].No.13370 of 2011

P.Natarajan

: Petitioner

Vs.

1.Union of India,
Represented by
The Chief Post Master General,
Tamil Nadu Circle,
Anna Salai,
Chennai-600 002.

2.The Senior Superintendent of Post Office,
Madurai Division,
Madurai-22.

3.The Central Administrative Tribunal,
Madras Bench, Madras.

: Respondents

PRAYER: Writ Petition is filed under Article 226 of the Constitution of India to issue a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order passed by the third respondent Central Administrative Tribunal Order in O.A.No.800/2010 dated 15.03.2011 and quash the same and direct the second respondent, if the shortage period comes in minimum required for pension, it will take from the service who worked in the petitioner as Extra Departmental Delivery Agent and grant minimum pension and other retirement service benefit to the petitioner.

For Petitioners : Mr.J.Mathesh

For Respondents 1&2 : Mr.S.Jeyasingh,

O R D E R

[Order of the Court was made by **R.SUBBIAH,J**]

The petitioner has come up with the present Writ Petition seeking for the issuance of a Writ of Certiorarified Mandamus, to call for the records pertaining to the impugned order passed by the third respondent Central Administrative Tribunal Order in O.A.No.800/2010 dated 15.03.2011, quash the same and direct the second respondent, if the shortage period comes in minimum required for pension, it will take from the service who worked in the petitioner as Extra Departmental Delivery Agent and grant



minimum pension and other retirement service benefit to the petitioner.

2. The case of the petitioner is that he had initially joined as Extra Departmental Delivery Agent at Melauppligundu Branch Office in the second respondent Division on 22.06.1977. After 20 years of continuous service as Extra Departmental Delivery Agent, he got promotion as Postman at Subramaniyapuram Post Office in the second respondent Division on 06.03.1997. After rendering service of 9 years, 2 months and 25 days, he had retired from service as Postman on 31.05.2006. At the time of retirement, he moved to the second respondent Division for getting pension. But the second respondent Division denied the pension stating that the petitioner has not completed the qualifying service of ten years. Thereafter, the petitioner sent several representations to the second respondent to consider his plea for grant of minimum pension and finally, he made a representation dated 25.02.2010 to the first respondent. However, no reply was made and hence, he filed a petition in O.A.No.800 of 2010 before the Central Administrative Tribunal and the same was dismissed on 15.03.2011. Therefore, the petitioner is before this Court with the present Writ Petition.

3. Today, when the matter was taken up for consideration, the learned counsel for the petitioner submitted that based on the judgment made in O.A.No.1264 of 2001 filed by one Palanichamy, a recommendation was made to the Postal Department to fix the immediate plan for not having minimum required service of ten years in regular postman/Group-D cadres, stating that if the shortage comes in minimum required service, the shortfall of service will be taken from GDS Cadre. In fact, the department filed W.P.No.45465 of 2002 against the order made in O.A.No.1264 of 2001. However, the same was dismissed, against which, S.L.P. was filed and the same was also dismissed on 17.10.2008. Further, this Court, by following the judgment in W.P.No.45465 of 2002, has passed several orders granting pension. The learned counsel has also produced a copy of the order passed by a Division Bench of this Court in W.P.No.29896 of 2013, dated 06.12.2013 and another order dated 15.02.2016, passed in W.P.Nos.23638, 23639 and 34966 of 2015 for perusal of this Court. Thus, the learned counsel prays for allowing the Writ Petition, by following the said judgment.

4. Countering the said submission, the learned counsel for the first and second respondents, by filing a detailed counter-affidavit, submitted that the petitioner was permitted to retire from service on attaining the age of superannuation on 31.05.2006, after rendering service of 9 years, 2 months and 25 days. Thus, according to Rule 49(1) of CCS (Pension) Rules, 1972, a Government servant who retires from service before completing qualifying service of ten years shall not be entitled to pension. There are no specific rules/orders issued by the Government of India to



consider the GDS service in calculating the length of qualifying service. Thus, he sought for dismissal of the Writ Petition.

5. We have considered the submissions and perused the materials available on record.

WEB COPY

6. In fact, in an identical issue, this Court, by following the judgment rendered in W.P.No.45465 of 2002, dated 04.10.2007, has passed an order, directing the Postal Department to pay pension. It is useful to refer to the relevant portion from the judgment in W.P.No.29896 of 2013 [Union of India Vs. P.Sevakan], which reads thus:

"10. Again, in the order dated 14.2.2013 passed by this Court in Writ Petition No.22496 of 2009 (Union of India, rep. by the Secretary, Department of Posts, Dak Bhavan, New Delhi 110 001 and others v. G.Thulasidasan), similarly placed person was ordered to be granted pension, considering the long number of years of service as E.D. staff, though the person was not having ten years of completed pensionable service.

11. A Division Bench of Karnataka High Court by order dated 25.3.2013 in Writ Petition No.72872 of 2012 (S-CAT) (Union of India, rep. by the Secretary, Department of Posts, Dak Bhavan, New Delhi-110 001 and others v. B.V.Dambal) also passed similar order."

7. Following the same, a Division Bench of this Court allowed W.P.Nos.23638, 23639 and 34966 of 2015, by order dated 15.02.2016 on similar line.

8. In fine, following the dictum laid down in the cases cited supra, the Writ Petition is also allowed on similar line and the impugned order dated 15.03.2011 is set aside and the second respondent is directed to grant minimum pension and other retirement service benefits by taking into account the fact that if the shortage period comes in minimum period required for pension, it will take from the service of the petitioner as Extra Departmental Delivery Agent. No costs.

Sd/-

Assistant Registrar(P&A)

/True Copy/

Sub Assistant Registrar

To

1 The Chief Post Master General,
Tamil Nadu Circle,
Arundel Building,
Chennai-600 002.



2.The Senior Superintendent of Post Office,
Madurai Division,
Madurai-22.

3.The Central Administrative Tribunal,
Madras Bench, Madras.

+1cc to Mr.J.Mathesh,Advocate, SR No.7671
+1cc to S.Jeyasingh,Advocate, SR No.7674

Order made in
W.P.[MD].No.13370 of 2011
Dated: 10.02.2017

SML
MS/AM.PN/28.2.2017/4P.6C