



W.P.No.13635 of 2025

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 14.07.2025

CORAM:

THE HONOURABLE MR. JUSTICE **M.S. RAMESH**
AND
THE HONOURABLE MR. JUSTICE **V.LAKSHMINARAYANAN**

Writ Petition No.13635 of 2025

T.Selvaraju ... Petitioner

Vs.

1.Union of India, represented by
The Secretary,
Department of Posts,
Ministry of Communications & IT,
Raj Bhavan, New Delhi – 110 001.

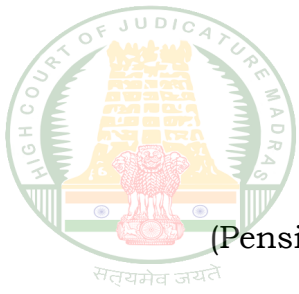
2.The Chief Postmaster-General,
Tamilnadu Circle,
Chennai – 600 002.

3.Postmaster General,
Central Region,
Tiruchirappalli 620001.

4.Senior Superintendent of Post Officers,
Tiruchirappalli Division,
Tiruchirappalli 620001.

... Respondents

PRAYER: Writ Petition filed under Article 226 of the Constitution of India for the issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order dated 30.08.2024 passed by the learned Administrative Tribunal, Madras Bench in O.A.No.1020 of 2022 and quash the same as illegal and direct the respondents to treat the period 22.09.2000 to 03.07.2009 as qualifying pensionable service for the purpose of grant of eligible pension under Rule 49 of the CCS (Pension) Rules 1972 (now amended as Rule 44 of CCS



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(Pension) Rules, 2021).

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For Petitioner : Mr.P.R.Satyanarayanan

Respondent 1 : Mr.Chandrasekaran

ORDER

(Order of the Court was made by **V.LAKSHMINARAYANAN, J.**)

Heard Mr. P.R.Satyanarayanan for the petitioner and Mr.Chandrasekaran for the contesting respondent.

2. The writ petition seeks for the following reliefs:

“ To call for the records relating to the impugned order dated 30.08.2024 passed by the learned Administrative Tribunal, Madras Bench in O.A.No.1020 of 2022 and quash the same as illegal and direct the respondents to treat the period 22.09.2000 to 03.07.2009 as qualifying pensionable service for the purpose of grant of eligible pension under Rule 49 of the CCS (Pension) Rules 1972 (now amended as Rule 44 of CCS (Pension) Rules, 2021).”

3. The undisputable facts are the petitioner was appointed as Extra-Departmental Mail Carrier (EDMC) by the Postal Department. Being in possession of a heavy vehicles driving licence, he registered his name with the Employment Exchange at Tiruchirapalli in the year 1974. Though he was eligible for appointment as a driver, he was not



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considered for the same. Hence, he moved the Central Administrative Tribunal (hereinafter referred to as CAT) at Madras by way of an application in O.A.No.922 of 1998. He contended before the Tribunal that he had worked for more than 240 days and had been selected to work as a driver in the leave vacancies. He stated that the Postal Department had also held out to him by asking his willingness to work as a driver in any unit in the circle. The respondents had not kept up with their promise, thereby giving rise to a legitimate expectation of the writ petitioner. He sought for an order of appointment.

4. The CAT, after hearing both sides, allowed the application on 22.09.2000 giving a direction to the respondents to consider the case of the applicant for appointment to the post of vehicle driver and also to relax the age restriction, if it was so required. It also directed the respondents to comply with the order within a period of two months from the date of receipt of a copy of the said order.

5. Despite this order, the respondents rejected the request of the applicant stating that they could grant age relaxation to an extent of 374 days only and therefore, they are not in a position to appoint the writ petitioner as a driver. Challenging this order, another application was moved in O.A.No.916 of 2002. This application also came to be allowed on 31.01.2003. The respondents challenged the said order



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before this Court by way of a writ petition in W.P.No.25176 of 2003.

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6. The said writ petition was taken up for hearing before this Court on 29.02.2008. It came to be dismissed. It pointed out that as the earlier order in O.A.No.922 of 1998 had become final, there was no justification in the case of the writ petitioners therein to refuse employment to the writ petitioner herein. Challenging the said order, a special leave petition was preferred to the Supreme Court in SLP (Civil) CC.No.15156 of 2008. The Special Leave Petition was dismissed on 25.11.2008.

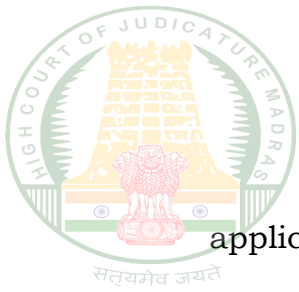
7. Recording all these facts, the respondents herein issued an appointment order on 16.04.2009. The petitioner retired from service, after putting in 6 years 10 months and 28 days. He gave a detailed representation on 02.06.2018 seeking to treat notionally the period from 13.10.1998 to 04.07.2009, which was spent on litigation, as qualifying service for the purpose of pension. He followed it up with a reminder As there was no response to the representation and the reminder, he approached the CAT again in O.A/310/00326/2019. By an order dated 15.03.2019, the CAT directed the respondents to consider the representation and pass orders within a period of three months from the date of receipt of a copy of the said order.



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8. In compliance with the orders passed by the CAT, the Senior Superintendent of Post Offices, Tiruchirapallai Division passed an order on 10.02.2020. He rejected the claim of the applicant. Against this order dated 10.02.2020, the writ petitioner preferred an appeal to the Secretary, Department of Posts, Ministry of Communications and IT, New Delhi on 19.01.2021. He pleaded that he is not seeking the service rendered by him as Gramin Dak Sevak (GDS), for the purpose of pension, but only the period spent in litigation. He modified his prayer seeking the period of notional service, not from 13.10.1998, but from the date of the order passed in O.A.No.922 of 1998 i.e., 22.09.2000 to be taken into consideration. This request also came to be rejected. Consequently, he moved O.A.No.310/1020/2022 seeking to quash the proceedings dated 10.02.2020, and the order dated 16.04.2022, and to further direct the respondent to account notionally the period from 22.09.2000 till 04.07.2009 as qualifying service and to grant minimum pension as provided under Rule 49 of CCS (Pension) Rules, 1972.

9. The Tribunal admitted the original application and directed the respondents to file a counter. A detailed counter too was filed. The stand taken by the respondents was that the applicant had joined the service only on 06.07.2009 and therefore, not eligible for pension under the Old Pension Scheme, but he is covered under the New Pension Scheme only. They pointed out that till 05.07.2009, the



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applicant was only a GDS and since GDS is not a regular service, he is not entitled to the relief sought for. They relied upon certain judgments of the Supreme Court on this plea, to substantiate their plea.

10. The CAT took up the application for disposal on 30.08.2024. It agreed with the submissions of the respondents and dismissed the Original Application. Challenging the same, the present writ petition.

11. The learned counsel for the petitioner and the learned counsel for the first respondent reiterated the contentions they placed before the Tribunal.

12. We have carefully considered their submissions and have gone through the records.

13. We have already set forth the admitted facts *supra*. It is not in dispute that the directions passed by the Tribunal on 22.09.2000 was never challenged. Therefore, the respondents were duty bound to appoint the petitioner, three months from the date of the order i.e., at least from 22.12.2000. Yet, it was the respondents, who forced the petitioner, to move the CAT again in O.A.No.916 of 2002.



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14. A perusal of that order passed in O.A.No.916 of 2002 shows that the CAT did no more than direct the respondents to comply with the order previously passed. Even at that stage, i.e., on 31.01.2003, the respondents did not issue the appointment order. They challenged only the subsequent order of the CAT (O.A. No.916 of 2002) by way of a writ petition. That too ended in dismissal. The further plea for Special Leave to the Supreme Court also ended in dismissal. These facts will show that from September 2000 till November 2008, the respondents were consuming time by indulging in litigation and were not implementing the orders of the CAT. The delay from 2000 to 2009 cannot be placed at the door step of the writ petitioner. Had the order been complied as directed by the CAT, the writ petitioner would have had additional nine years of service and thereby, making him eligible for pension.

15. The CAT had relied upon the Gramin Dak Sevaks (Conduct and Engagement) Rules, 2011 [hereinafter referred to as “GDS Rules”] for the purpose of dismissing the original application. In fact, the question of law that had been framed by CAT in this case was

“Whether the service rendered by the applicant as GDS can be taken into account for grant of pension or not?”

This was not the issue that was presented, before the Tribunal. The issue, that the Tribunal ought to have posed itself and which is very



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clear from the original application, is that

“whether the period of litigation should be taken into consideration for the purpose of calculating the qualifying service.”

When a wrong question is posed for the purpose of answering the right issue, the result would obviously be a wrong one.

16. The Tribunal merely relied upon Rule 3 of the GDS Rules to hold that a GDS would be outside the civil service of the Union and could not claim parity with a Central Government employee. At the risk of repetition, we have to point out, the plea of the applicant was that the period, from when he succeeded before the Tribunal, through the litigation till the Supreme Court, should be treated notionally as qualifying service and to grant him pension. This issue has unfortunately not been addressed by the Tribunal. Where the issue that has been raised has not been answered at all by the Tribunal, it renders itself to be liable to be interfered with by us in exercising Article 226 of the Constitution of India. We, accordingly, do so.

17. Under Article 261 of the Constitution of India, full faith and credit should be enacted to the orders and decrees of the courts. When the Constitution of India was given by us in 1950, there was no CAT. Subsequently, the CAT took over the duties, which were performed by this Court under Article 226 of the Constitution of India



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at the first instance. Therefore, the orders that had been passed by the CAT in exercise of the powers conferred under the Administrative Tribunals Act, would also be covered under Article 261 of the Constitution.

18. Having succeeded on 22.09.2000 and that order not having been challenged, the applicant gets the right to claim that he ought to have been appointed from the date on which the judgment was pronounced. In fact, at least after the second round of litigation, which concluded in January of 2003, the respondents could have complied with the order of the Tribunal. Yet they did not do so. The litigation continued at the instance of the respondents till November 2008.

19. The writ petitioner cannot be treated on par with other GDS employees. This is because the other GDS employees are not strengthened by the orders of the Tribunal. Therefore, we are of the view that the applicant would be entitled to calculate the period spent on litigation towards calculation of qualifying service. The factum that the applicant was strengthened with the judgment of the Tribunal, which had attained finality in the year 2000, makes all the difference between his case and those covered by the judgment of the Supreme Court in ***Union of India v. Gandiba Behera, AIR Online 2019 SC 2018.***



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20. We are conscious of the fact that GDS Rules cannot be utilised for the purpose of calculating the qualifying service for pension. We have already noted in the preliminary portion of the order that the applicant was appointed as GDS in the year 1979. We are not taking into consideration his period from 1979 till 22.09.2000 for the purpose of his qualifying service. It is only the period from 22.09.2000, i.e. the date on which the Tribunal allowed the application, we are taking into consideration.

21. In fact in paragraph 21(ii) of **Gandiba Behera**'s case, the Supreme Court had directed the appellants therein to consider whether the minimum qualifying service rule can be relaxed in cases of the respondents before the Supreme Court, in terms of Rule 88 of 1972 Rules.

22. In the light of the above discussion, we are inclined to interfere. The impugned order is set aside. The writ petition is allowed in the following terms:

(i) The respondents shall treat the period from 22.09.2000, i.e., the date of the order passed in OA.No.922 of 1998, till 04.07.2009 as qualifying service.

(ii) the benefits which the petitioner would get on account of clause (i) shall be treated notionally, and the financial benefits that



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the applicant would have obtained should be treated as his contribution under the Old Pension Scheme.

(iii) The respondents shall grant the benefit of pension to the applicant in compliance with clause No.1 within a period of three months from the date of receipt of a copy of this Order.

No costs.

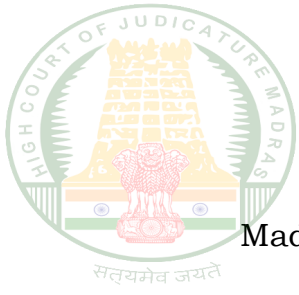
(M.S.R, J.) (V.L.N, J.)
14.07.2025

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Index : Yes
Speaking Order
Neutral Citation : Yes

To

- 1.The Secretary,
Department of Posts,
Ministry of Communications & IT,
Raj Bhavan, New Delhi – 110 001.
- 2.The Chief Postmaster-General,
Tamilnadu Circle,
Chennai – 600 002.
- 3.The Postmaster General,
Central Region,
Tiruchirappalli 620001.
- 4.The Senior Superintendent of Post Officers,
Tiruchirappalli Division,
Tiruchirappalli 620001.
- 5.The Central Administrative Tribunal,



Madras Bench, Chennai

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M.S. RAMESH, J.
and
V.LAKSHMINARAYANAN, J.

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