

**CENTRAL ADMINISTRATIVE TRIBUNAL  
BANGALORE BENCH: BANGALORE**

**ORIGINAL APPLICATION NO.170/00170/2019**

**DATED THIS THE 30<sup>th</sup> DAY OF JANUARY, 2020**

**HON'BLE SHRI C.V.SANKAR, ADMINISTRATIVE MEMBER**

K.S.Prakash  
S/o K.Krishnamurthy  
Aged about: 64 years  
Retired TBOP SA SBCD  
Jayanagar HO  
Bangalore-560041.  
Residing at:  
10, II Floor, 4<sup>th</sup> B Cross  
Balaji Road, Vivekananda Nagar  
Kathriguppe Main Road  
BSK II Stage  
Bangalore-560085.

.....Applicant

(By Advocate Sri P.Kamalesan)

Vs.

1. Union of India  
Represented by Secretary  
Department of Posts  
Dak Bhavan  
New Delhi.
2. The Chief Post Master General  
Karnataka Circle  
Bangalore-560001.

....Respondents

(By Advocate Sri V.N.Holla, Sr.PC for CG)

**O R D E R**

**(PER HON'BLE SHRI C.V.SANKAR, MEMBER(A))**

The case of the applicant is that he was direct recruit as UDC at SBCO, Tumkur HO w.e.f. 10.3.1983. The DG Posts, New Delhi issued clarification vide letter dtd.24.9.1996(Annexure-A3) regarding applicability of Time Bound One Promotion(TBOP) Scheme according to which wherever the seniority was

adversely affected by implementation of TBOP scheme, the seniors should be granted pay at par with juniors. The applicant was promoted to LSG cadre under TBOP scheme w.e.f. 1.8.1991 vide Chief Post Master General(CPMG), Karnataka Circle letter dtd.3.1.1997(Annexure-A4). The DG Posts issued further clarification vide letters dtd.5.8.1997(Annexure-A5) & dtd.1.1.1998(Annexure-A6) regarding placement of higher scale to services at par with juniors. In supersession of letters at Annexures-A3, A5 & A6, the DG Posts issued orders dtd.17.5.2000(Annexure-A7) whereby seniors in gradation list will not be considered for next higher scale of pay from the date their immediate juniors become eligible for next higher grade without completing the prescribed period of service, as per eligibility conditions of placements in the higher scale of pay. The Dept. of Posts issued order dtd.8.5.2017(Annexure-A8) for withdrawing the order dtd.17.5.2000 and directing that the instructions issued vide letters at Annexures-A3, A5 & A6 will again come into force. The applicant submitted a representation on 27.9.2017(Annexure-A9) urging the respondents to grant next higher pay at par with juniors in lieu of withdrawal of instructions of 17.5.2000. He submitted representations dtd.19.1.2018(Annexure-A10) and 25.4.2018(Annexure-A11). The CPMG, Karnataka Circle vide letter dtd.26.9.2018(Annexure-A12) rejected the applicant's representation. Then the applicant submitted another representation dtd.5.11.2018(Annexure-A13). Applicant relied on the orders of Hon'ble High Court of Karnataka dismissing the WP.No.55123/2014(S-CAT) (Annexure-A14) filed by the respondents in an identical case, the Hon'ble High Court of Andhra Pradesh dismissing the WP.No.31500/2011(Annexure-A15) filed by the respondents and the Hon'ble Apex Court judgment dismissing the SLP(C).Nos.35654/2015 directing the respondents to extend the benefit to all the

similarly situated employees. He submits that in an identical case, the UP postal circle issued orders dtd.12.9.2017(Annexure-A17) placing the seniors at par with juniors under BCR scheme. Even though there are instructions from DG Posts, New Delhi and in spite of their undertaking before the Hon'ble Apex Court that they will implement the order for all similarly placed persons, the respondents refused to extend the benefit to the applicant which is arbitrary and unsustainable under law. Aggrieved by the same, the applicant has filed the present OA seeking the following relief:

- i. Quash the Chief Post Master General, Karnataka Circle, Bangalore Letter No.STA/18-3-SBCO/TBO/BCR/2017 dated: 26.9.2018 vide Annexure-A12.*
- ii. Direct the respondents to grant higher pay, at par with his juniors in the gradation list with effect from 1.1.2002, with all consequential financial benefits.*

2. The respondents, on the other hand, have submitted in their reply statement that the applicant was initially appointed as UDC at SBCO, Tumkur HO on 10.3.1983. He was granted financial upgradations under TBOP w.e.f. 1.8.1991 and BCR was not granted since the applicant retired under voluntary retirement on 9.1.2006 before becoming eligible for BCR i.e. before completion of 26 years of service. When the applicant submitted representation to consider his placement under BCR w.e.f. 1.1.2002 on par with his junior in the gradations lists issued during the year 1998, 2001 & 2004, a reply was given vide Annexure-A12 stating that the Postal Directorate vide letter dtd.8.5.2017 has mentioned that instructions issued vide letters dtd.8.2.1996, 5.8.1997 and 01.01.1998 will come into force. Further, it was communicated that only UDCs working in SBCO on or before 1.8.1991 are eligible for placement under TBOP/BCR on par with junior LDC to the respective grade if the LDCs had been brought on transfer under Rule-38 of the P&T Manual Vol IV on or before 1.8.1991 and was working in that cadre as LDC on

the crucial date i.e.1.8.1991 and was still working as such on that date. UDCs working in CO/RO on or before 26.6.1993 and affected by implementation of BCR/TBOP scheme placing their juniors in the next higher scale will be eligible for placement in the higher pay scale on par with the immediate junior from the date of such junior in that higher pay scale. In the instant case, the applicant was working as UDC as on 1.8.1991 and compares his junior UDCs as on 1.8.1991 which is not permissible as per the Directorate instructions dtd.8.5.2017. The officials are entitled to compare the anomaly on par with juniors as on the crucial date i.e. 1.8.1991 and they are not entitled for claiming benefits comparing juniors of subsequent gradations lists. The applicant submitted the case of Smt. Shylaja Chiplunkar, PA(CO) who was working as UDC as on 26.6.1993 and her case was compared with that of Sri D.V.Nagaraj who was brought on Rule-38 transfer and working as LDC as on 26.6.1993 and was granted BCR w.e.f. 25.5.1994. Hence, this case is not identical with that of the applicant's. The crucial date for PA, SBCO is 1.8.1991 and the criteria is UDC SBCO should compare an LDC SBCO brought on Rule-38 transfer and should be working as LDC only as on the crucial date i.e. 1.8.1991. As per Gradation List of SBCO as on 1.7.1986, Sri R.L.Nagaraju, Sri S.D.Jayachar and Sri D.S.Srikantaiah were working as UDCs and not as LDCs on or before 1.8.1991 and as such placement under BCR on par with junior UDC officials is not feasible as per Directorate Letter dtd.1.1.1998. Since the applicant is not satisfying any conditions stated above, he is not entitled for the benefits as sought for. Moreover, the application is filed after lapse of 17 years as he is seeking the relief to grant advancement of BCR w.e.f. 1.1.2002. No MA is filed for condonation of delay. Hon'ble Apex Court had held that the aggrieved official should agitate the matter within one year of

cause of action. There was no continuing cause of action. Nothing prevented the applicant from approaching the Tribunal in the year 2002 when the purported cause of action had arisen. Therefore, the OA is liable to be dismissed.

3. We have heard the Learned Counsels for both the parties and perused the materials placed on record in detail. The case of the applicant rests mainly on Annexure-A8 where in view of the revised instructions based on the orders of the Hon'ble Apex Court, vide para-4, it was decided that all cases where seniors are adversely affected by implementation of BCR scheme placing their juniors in the next higher scale will be decided in terms of instructions issued vide their office letters No.22-5/95-PE-I dated 8.2.1996, 5.8.1997 and 1.1.1998 relating to TBOP/BCR schemes. The applicant would state that three persons who are admittedly juniors to him in the common gradation list have been given BCR w.e.f. 1.1.2002 and the respondents are not agreeing to give the same benefit as was given to them since he had not completed 26 years as on 2002. From the gradation list at Annexures-A1 & A2, it is obvious that the three persons mentioned as juniors to the applicant have joined the service in the year 1975 whereas the applicant had joined the service in the year 1983 and therefore in 2002, the other three persons had completed 26 years for getting the benefit under BCR whereas the applicant had not completed 26 years. The applicant continuously urges that he is one of the seniors adversely affected by the implementation of the BCR Scheme since juniors have been placed in the next higher scale of pay. From the three letters cited viz. dtd.8.2.1996, 5.8.1997 and 1.1.1998, it is obvious that the question of placing seniors on par with the juniors will arise only in the cases where the junior was brought to that unit under Rule 38 of P&T Manual Vol.IV in the lower grade and on the crucial date he was still

working in the lower grade. The respondents have rightly contended that the three persons cited as juniors by the applicant were all functioning as UDCs on the crucial date i.e. 1.8.1991 and therefore, the clarification issued vide the letters cited above will not come to the rescue of the applicant. We agree with this contention since both the TBOP and BCR schemes are concerned with the years of service put in by the employees in order to prevent stagnation at the same level of pay and seniority does not enter the picture at all. The clarifications issued and the Annexure-A8 order are all related to the same issue of the juniors in the lower grade getting a march over the seniors in view of their length of service. This is clearly not the case of the present applicant. The OA lacks merit and hence dismissed. No costs.

(C.V.SANKAR)  
MEMBER (A)

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**Annexures referred to by the applicant in OA.170/00170/2019**

Annexure-A1: Letter dtd.6.2.1987 of PMG, Karnataka Circle  
Annexure-A2: Letter dtd.17.7.2002 of CPMG, Karnataka Circle  
Annexure-A3: Letter dtd.17.7.2002 of DG  
Annexure-A4: Letter dtd.3.1.1997 of CPMG  
Annexure-A5: Letter dtd.5.8.1997 of DG  
Annexure-A6: Letter dtd.1.1.1998 of DG  
Annexure-A7: Letter dtd.17.5.2000 of DG  
Annexure-A8: Letter dtd.8.5.2017  
Annexure-A9: Representation dtd.27.9.2017  
Annexure-A10: Representation dtd.19.1.2018  
Annexure-A11: Representation dtd.25.4.2018

Annexure-A12: Letter dtd.26.9.2018 of CPMG, Karnataka Circle

Annexure-A13: Representation dtd.5.11.2018

Annexure-A14: Order dtd.15.4.2015 in WP.No.55123/2014

Annexure-A15: Order dtd.8.4.2015 in WP.No.31500/2011

Annexure-A16: Order dtd.13.2.2017 in SLP.No.35654/2015

Annexure-A17: Letter dtd.12.9.2017 of CPMG, UP Circle

**Annexures with reply:**

-NIL-

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