

**CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH: BANGALORE**

ORIGINAL APPLICATION NO.170/00218/2018

DATED THIS THE 31st DAY OF JANUARY, 2020

HON'BLE DR.K.B.SURESH, JUDICIAL MEMBER

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

Sri K.Narasimha Bhat
S/o K.Nagaraja Bhat
Aged about 44 years
Branch Post Master
Kamalashile PO-576 229
Kundapura Head PO
Udupi Division, Udupi District
Resident of "Janani"
Agrahara
Post Kamalashile
Taluk Kundapura
District Udupi-576 229.

....Applicant

(By Advocate Sri K.Govindaraj)

Vs.

1. The Union of India
Represented by its Secretary
Ministry of Communication &
Information Technology
Department of Posts
(Establishment Division)/PAP Section
Dak Bhavan, Sansad Marg
New Delhi-110 001.
2. Director General of Posts
Dak Bhavan
Sansad Marg
New Delhi-110 001.
3. Chief Postmaster General
Karnataka Circle
Bangalore-560 001.
4. Post Master General
S.K.Region, 2nd Floor
GPO Building
Bangalore-560 001.

5. Superintendent of Post Offices
Udupi Division
Udupi-576 101.

....Respondents

(By Advocate Sri K.Dilip Kumar, ACGSC)

O R D E R

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

The applicant's case is that he was appointed as GDS BPM on 11.11.1994. He is working as Branch Post Master(BPM) in Kamalashile Post Office coming under Kundapura Head Post Office, Udupi Division. The Dept. of Posts set up a one man committee to examine the system of Extra Departmental Post Offices and wage structure of GDS. The said committee submitted its report on 29.10.2008. Then the respondent department decided to implement the recommendations and sent a communication dtd.9.10.2009(Annexure-A1) to the concerned offices wherein it was decided to extend Time Related Continuity Allowance(TRCA) for different categories of GDS which has to be implemented w.e.f. 1.1.2006. As per Annexure-A1, the applicant has been awarded with 125 points all the while based on his performance in discharge of his official duties. To award such points, Department would take into consideration the SB Vouchers, RD Vouchers, Time Deposits, SSA. The performance of the applicant in discharge of his duties was good and accordingly he has been awarded with 125 points. In the statement dtd.27.8.2013(Annexure-A2), the remarks mentioned as 'upward' means that he has never gone below 125 points. The performance of the employees is evaluated on 2 yearly basis. Accordingly, applicant has also been extended with the benefit of TRCA. As on 1.1.2006, his basic pay was Rs.4640/- in the pay slab of Rs.3660-70-5760. However, from 1.8.2013, he has not been fixed with the pay properly in terms of the communication dtd.9.10.2009 as is evident from a statement/comparative table(Annexure-A3) prepared by the

applicant in accordance with the communication dtd.9.10.2009. Up to 31.7.2013, his basic pay was Rs.5130 as per pay slip for the month of July 2013(Annexure-A4). However, from the month of August 2013, it has gone down to Rs.5085/- per month(Annexure-A5). Then the applicant approached the respondents repeatedly and requested orally to set right the anomaly. Thereafter, he submitted representation dtd.9.3.2016(Annexure-A6). Then the Asst. Director General(Establishment) recommended his request for consideration to the 3rd respondent(Annexure-A7). The representation was also forwarded to the 4th respondent vide letter dtd.11.7.2017(Annexure-A8). On 4.10.2017, the office of the PMG, Bangalore sought for information from the CPMG(A&P) Karnataka Circle, Bangalore(Annexure-A9). On 3.11.2017, the applicant was informed that the issue raised by him has already been taken up with Directorate, New Delhi(Annexure-A10). Representations and requests of the applicant have remained unanswered. The final decision on the issue has been protracted unnecessarily. The inaction on the part of the respondents is violative of Article 14 of the Constitution of India. Therefore, the applicant has filed the present OA seeking a direction to the respondents to fix his pay strictly in terms of communication dtd.9.10.2009 as per Annexure-A1 extending the benefits of Time Related Continuity Allowance(TRCA) w.e.f. 1.8.2013 onwards by following the upward method with all consequential benefits including the accrued arrears.

2. The respondents, on the other hand, have submitted in their reply statement that the applicant was working as Branch Post Master since 11.11.1994 at Kamalashile Branch Post Office in account with Siddapura SO coming under Udupi Division. The Dept. of Posts has introduced Time Related Continuity Allowance(TRCA) to Gramina Dak Sevaks w.e.f. 1.1.2006 vide memo

dtd.9.10.2009. The applicant has also been extended with the benefit of TRCA. Considering the increase in workload from 100 points to 125, upward revision in TRCA was ordered vide dtd.27.8.2013. Accordingly, the applicant's TRCA was fixed in the scale of Rs.4575-85-7125 from the lower TRCA scale of Rs.3660-70-5760. As such, his basic TRCA was fixed as Rs.5085/- in the TRCA scale of Rs.4575-85-7125 and pay protection was given to the extent of Rs.85/- as he was already drawing the basic pay of Rs.5130/- in lower TRCA slab. The pay of Rs.5130/- was not available in the TRCA slab of 4575-85-7125 and the nearest available pay is Rs.5085 and since he was already drawing pay of Rs.5130/-, Rs.85/- was given as personal allowance to match the already drawn pay and pay fixed to the tune of Rs.5085+85=5170. As such, the TRCA stage was fixed in the lower stage in higher slab and difference is protected as personal allowance to be absorbed against future entitlement as specific stage is not available in the higher TRCA slab. Accordingly, his basic pay is fixed at Rs.5170/-, the stage which comes next to his old TRCA of Rs.5130/- in the 7th stage of new slab 4575-85-7125 and arrears to the tune of Rs.4190/- for the period from 1.8.2013 to 31.6.2019 was paid vide order dtd.11.2.2019(Annexure-R1). The said order was produced during the hearing on 20.2.2019 and in view of the same, the Tribunal has dismissed the OA as infructuous vide order dtd.20.2.2019. However, not being satisfied with the action of the respondents, the applicant filed MA.225/2019 requesting to recall the said order. In the MA, the applicant has contended that he had sought for the fixation of pay of Rs.6445/-. But it is not correct as the respondents have correctly fixed his pay at Rs.5170/- in the next stage in the enhanced slab of 4575-85-7125 over and above the pay he was drawing at Rs.5130/- in the revised TRCA slab of 3660-70-5760 consequent on

the increase in the workload. The applicant had represented to the 5th respondent alleging wrong fixation of TRCA and to fix the pay as per Dept. of Posts memo dtd.9.10.2009. But the said memo is applicable to initial fixation of TRCA on 1.1.2006.

3. The respondents submit that the workload of the BPMs will be reviewed once in 2 years and depending upon the workload, points will be allotted and depending upon the points earned by the employee, his pay will be revised either upward or otherwise. It is not correct to say that depending upon Annexure-A2, the applicant had always been awarded with 125 points. The A2 pertains to a particular period and not for the entire service of the applicant. The Directorate Memo dtd.9.10.2009 prescribed the method of initial fixation of TRCA on 1.1.2006. It is not pertaining to the subsequent revisions. On subsequent upward revision, the TRCA stage is being fixed in the lower stage in the higher slab and difference if any is being protected as personal allowance(Pay Protection) to be absorbed against future entitlement if specific stage is not available in the higher TRCA slab. Accordingly, the respondents have correctly fixed the pay to Rs.5170/- the stage which comes next to his old TRCA of Rs.5130 in the 7th stage of new slab of Rs.4575-85-7125. The applicant is challenging the upward revision order issued vide memo dtd.27.8.2013 with a request that the procedure of fixation prescribed in memo dtd.9.10.2009 should be applied in total to upward revision ordered in memo dtd.27.8.2013 but the order dtd.9.10.2009 is applicable only for initial fixation of TRCA as on 1.1.2006 and not for subsequent revisions. As such the prayer of the applicant is not tenable in the eyes of law. Therefore, the OA is liable to be dismissed.

4. The applicant has filed rejoinder reiterating the submission already made in the OA and submits that the 5th respondent himself has decided/fixed the pay of the applicant as per his whims. There is nothing to show that the fixation has been done as per the guidelines given by the 2nd respondent. Thus the pay scale of the applicant has been fixed arbitrarily by the 4th & 5th respondents in the guise of extending the TRCA benefits. But as per circular/communication at Annexure-A1, he has not been extended with TRCA benefits. His grievance remains as it is.
5. We have heard the Learned Counsel for both the parties and perused the materials placed on record in detail. The issue in this case is in a very small compass. The applicant would like the extension of the benefits of Time Related Continuity Allowance(TRCA) w.e.f. 1.8.2013 on the same basis as was done w.e.f. 1.1.2006 as was prescribed in Annexure-A1. The respondents would contend that the methodology adopted as per Annexure-A1 is with respect to only the revision of the wage structure w.e.f 1.1.2006 and is not applicable to the further upward revision when it was done vide Annexure-A2 since there are no specific instructions in this regard. They would state that the pay of the applicant was increased from the present TRCA of Rs.3660-5760 to Rs.4575-7125 w.e.f. 1.8.2013 and that they have followed the procedure as prescribed without any deviation. But as can be seen from Annexure-A6, the crux of the matter relates to fixing the TRCA stage in the lower stage in higher slab during the upgradation in 2013 with the difference being protected as personal allowance to be absorbed against future entitlement as the specific stage is not available in the higher TRCA slab. In the communication from the CPMG, Karnataka Circle to the Director General of Posts vide letter dtd.18.7.2014 enclosed as part of Annexure-A6, it can be seen that the respondents have taken the stand that there are no

clear cut instructions to fix the TRCA as available in the case of departmental officials while fixing the basic in the new TRCA slab and hence to avoid objections/recoveries etc., the TRCA is being fixed at the present basic or below the present basic by keeping the difference amount as protection(as personal pay). The respondents themselves have admitted that if the upward revision cases are reviewed with reference to the instructions earlier issued on 11.10.2004 etc., the stage in the cases of upward revision should be fixed in the next higher stage with reference to the existing stage in lower stage without restricting the same stage and granting personal allowance for the difference. Therefore, it is obvious that the persons situated like the applicant who have consistently performed at a higher level based on the standards fixed by the respondents themselves should normally be benefited from the fixation in the next higher stage rather than the lower stage and protecting the existing pay by a personal pay. However, the respondents have not taken a clear decision in this regard as can be seen from the correspondence at Annexure-A6 etc. The claim of the applicant is fully justified and therefore the respondents are directed to examine the matter in detail in the spirit of the provisions made for the upward revision of the TRCA for employees similar to the applicant and take an appropriate decision for fixing the TRCA at the next higher stage rather than the lower stage as rightly requested by the applicant within a period of three(3) months from the date of issue of this order.

6. The OA is allowed to this extent. No costs.

(C.V.SANKAR)
MEMBER (A)

/ps/

(DR.K.B.SURESH)
MEMBER (J)

Annexures referred by the applicant in OA.No.170/00218/2018

Annexure-A1: Copy of Communication dtd.9.10.2009
Annexure-A2: Copy of the statement dtd.27.8.2013
Annexure-A3: Copy of the statement
Annexure-A4: Copy of the pay slip for the month of July 2013
Annexure-A5: Copy of the pay slip for the month of August 2013
Annexure-A6: Copy of the representation dtd.9.3.2016
Annexure-A7: Copy of the representation dtd.2.11.2016
Annexure-A8: Copy of the representation dtd.11.7.2017
Annexure-A9: Copy of the communication dtd.4.10.2017
Annexure-A10: Copy of the communication dtd.3.11.2017

Annexures with reply statement:

Annexure-R1: Copy of the order dtd.11.2.2019

Annexures with rejoinder:

-NIL-
