

**CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH**

**OA No. 104 of 2014**

**Present: Hon'ble Mr. Gokul Chandra Pati, Member (A)  
Hon'ble Mr. Swarup Kumar Mishra, Member (J)**

Rabindranath Biswal, aged about 52 years, S/o Trilochan Biswal, GDS-BPM, working in the Office of Mancheswar Railway Station Branch Office, Mancheswar, Bhubaneswar, Dist.-Khurda.

.....Applicant

VERSUS

1. Union of India represented through its Director General of Post, Dak Bhawan, Sansad Marg, New Delhi-110001.
2. Chief Post Master General, Orissa Circle, Bhubaneswar, Dist.-Khurda, Pin -751001.
3. Senior Superintendent of Post Offices, Bhubaneswar Division, Bhubaneswar, Dist.-Khurda, Pin-757009.
4. Assistant Superintendent of Post Offices, Bhubaneswar North Sub Division, Bhubaneswar, Dist.-Khurda, Pin-751001.
5. Senior Post Master, Bhubaneswar GPO, Bhubaneswar, Dist.-Khurda.

.....Respondents

For the applicant : Mr.T.K.Mishra, counsel

For the respondents: Mr.D.K.Mallik, counseol

Heard & reserved on : 20.02.2020

Order on : 13.05.2020

**O R D E R**

**Per Mr.Gokul Chandra Pati, Member (A)**

The applicants in the present OA have sought for the following reliefs :

- “(i) That this Hon'ble Tribunal be pleased to quash the order dated 30.12.2013.
- (ii) This Hon'ble Tribunal be pleased to direct the respondents to sanction and disburse the exact salary on the basic pay of Rs.5045/- -75- 6470/- with effect from Nov, 2012.
- (iii) And further be pleased to direct the Senior Post Master, Bhubaneswar GPO to disburse the arrear salary with effect from November, 2012.
- (iv) And further be pleased to direct the respondent to pay the interest upon the arrear salary with effect from November, 2012 to till the date of disbursement.

And any relief/reliefs be passed in favour of the applicant as this Hon'ble Court deem fit and proper.”

2. In this case, the applicant was initially appointed as Gramin Dak Sevak Stamp Vendor (in short GDSSSV) on 8.8.1994 and was declared as surplus after abolition of the post of GDSSV. He was deployed as GDS Mail Deliverer in Naharkanta Post Office vide order dated 17.2.2011 (Annexure-A/1) and then

deployed as the GDS Branch Post Master (in short GDSBPM) of Mancheswar Post Office after giving a substitute at Naharkanta PO at his risk vide order dated 31.3.2011 (Annexure-A/2). He submitted a representation (Annexure-A/4) to be posted there permanently, but no action was taken, for which he had filed the OA No. 353/2012, which was disposed of by this Tribunal vide order dated 24.1.2020.

3. In this OA, the grievance is that the applicant's TRCA was reduced by the respondents without assigning any reason, for which he had filed the OA No. 283/13 and then OA No. 734/13 which were disposed of with direction to the respondents to consider his representation in this regard. The respondents accordingly have passed the order dated 30.12.2013 (Annexure-A/11) rejecting the applicant's representation, for which this present OA has been filed.

4. We heard learned counsel for the applicant in the matter. He submitted that the reason furnished in the impugned order at A/11 for rejection of the representation is non-achievement of the target and it is not a permissible ground for reduction of the TRCA as per the rules. It is also submitted that the applicant has been harassed by the authorities from time to time as explained in the OA and in spite of the he was also suffering from different ailments, his performance has been satisfactory.

5. Per contra, learned counsel for the respondents opposed the submissions and pointed out to the following averments in para 4 of the Counter :-

"That the averments made by the applicant in Para-1 of the OA are not based on facts and hence denied. As narrated in the foregoing paras, the applicant in continuing in a temporary post (other than his parent post) i.e. GDS BPM, Mancheswar Rly. Station BO purely on his own interest and an incumbent is only entitled to draw the Time Related Continuity Allowance (TRCA) of a post which he holds. TRCA of a Gramin Dak Sevak is fixed to a specific post and it does not change at different points of time if different persons are appointed or ordered to function in the said post,. The settled principle is that a person drawn the TRCA of the post where he works and it does not alter if different persons hold the post at different points of time. This provision of drawal of TRCA against the post in question cannot be twisted to suit a particular person's interest.

The OA No. 734/2013 was disposed of by the Hon'ble CAT, Cuttack Bench at the admission stage vide order dated 20.11.2013 with direction to the Sr. Supdt. Of Post Offices, Bhubaneswar Division, Bhubaneswar (Respondent No.3) to take a decision on the representation dated 15.4.2013 of the applicant and to communicate the result thereof in a well reasoned order at an early date preferably within a period of 30 days from the date of receipt of the copy of the order. In obedience to the orders of Hon'ble Tribunal, the representation dated 15.4.2013 of the applicant was considered and the result thereof communicated to him vide Respondent No.3 Memo No. 194(sub)/Ch.I dtd. 30.12.2013 (copy enclosed as Annexure-A/11) which is self explanatory."

6. Learned counsel for the applicant submitted that as stated in the Rejoinder, the applicant was deployed to work in Mancheswar Post Office as

GDSBPM with the existing TRCA keeping in view his ailments. The para 4 of the Rejoinder in reply to para 4 of the Counter, states as under:-

“That in reply to paragrapyh-4 of the counter, it is to state here that the applicant has been directed to work as GDS BPM in Mancheswar Railway Station BO on existing TRCA. He discharged his duty more than five hour per day. Hence he is entitled to get the TRCA under Chapter 6 of GDS Recruitment Rules, without any order or proceedings, the applicant salary has been reduced and has been deducted.”

7. While considering admission of the OA, this Tribunal passed the order on 4.3.2014 directing the respondents not to recover any amount from the applicant's salary without leave of this Tribunal. It is seen that although the respondents had decided to recover some amount, no opportunity of hearing was allowed and no specific order was issued by the competent authority to that effect. When the Tribunal directed the respondents to dispose of the applicant's representation by a speaking order, the impugned order dated 30.12.2013 (A/11) has been passed by the respondent no. 3. It is also noticed that no explanation as to why no order of recovery was issued in this case, has been furnished in the impugned order or in the pleadings of the respondents.

8. The order dated 30.12.2013 (A/11) stated as under:-

“Sri Rabindra Nath Biswal, GDS MD, Naharkanta BO in account with Baliana SOP under Bhubaneswar GPO (now working as GDS BPM, Mancheswar R.S. BO) had filed OA No. 283/2013 before the Hon'ble Central Administrative Tribunal, Cuttack Bench on 30.04.2013 seeking direction to the Departmental Respondents to sanction and disburse the exact salary on the basic pay of Rs.2745 -5- 4245 with effect from April 2013 with disbursement of arrear salary with effect from November 2012. But the OA was disposed of as withdrawn at the admission stage vide Order dated 10.05.2013.

The said Sri Biswal filed another case in the Hon'ble Central Administrative Tribunal, Cuttack Bench on 20.10.2013 in OA No.7334/2013 praying for direction to the Departmental Respondents to sanction and disburse the exact salary on the basic pay of Rs.5045 -75- 6470 with effect from November 2012. The OA was disposed of at the admission stage vide Order dated 20.11.2013 with direction to the Sr. Supdt. of Post Offices, Bhubaneswar Division (Respondent No.3) to take a decision on the representation dated 15.4.2013 of the applicant and to communicate the result thereof in a well-reasoned order at an early date, preferably within a period of 30 days from the date of receipt of copy of the order.

The copy of the judgment in this case was received in the office of the Respondent No.3 on 29.11.2013 through the applicant and on 09.12.2013 through the Govt. Counsel concerned. In obedience to the orders of Hon'ble Tribunal, the representation dated 15.04.2013 of the said Sri Rabindranath Biswal was considered with the following observations.

While working against the vacant post of GDS BPM, Mancheswar R.S.BO, Sri Rabindra Nath Biswal was assigned with the target for opening of at least 300 POSB Accounts and 60 RPLI Policies up to the end of March 2013. But he did not take any initiative and failed to achieve the target. Further, a GDS is entitled to get his TRCA in the minimum scale of the post if he works in a post other than his parent post. In view of the above, the TRCA of Sri Biswal is drawn in the scale of 2745 -50- 4245 which is the minimum TRCA of the post of GDS BPM, Mancheswar R.S. BO.

In fact, Sri Rabindranath Biswal was originally appointed to work as GDS Stamp Vendor, Sahid Nagar MDG. Consequent upon the abolition of posts of GDS Stamp Vendors by the Department, the incumbent of the said posts, who stood retrenched, were adjusted against the vacant GDSMD posts. Accordingly Sri Biswal was redeployed against the vacant post of GDS MD, Naharkanta BO in account with Baliana, SO. While working as such, Sri Biswal was drafted to manage the vacant post of GDS BPM, Mancheswar R.S. BO in account with Mancheswar Rly. Colony SO as a stop gap arrangement providing a suitable substitute at his own place at Naharkanta Bo. After a few days, it was considered to send back Sri Biswal to his parent post i.e. GDS MD, Naharkanta BO. Alternate arrangement against the post of GDS BPM, Mancheswar R.S. BO was made and Sri Biswal was asked to resume his parent post i.e. GDS MD, Naharkanta BO by making over charge of Mancheswar R.S. BO to another person as per the order. But in crass disobedience of the orders, Sri Biswal denied to make over charges of the BPM, Mancheswar R.S. BO and continued to hold the said post on the strength of a stay order obtained from the Hon'ble CAT, Cuttack pronounced on 23.05.2012 in OA No. 353/2012 filed by him,. Thus this act of Sri Biswal shows that he is willing to hold the post of GDS BPM, Mancheswar R.S. BO and for that matter he preferred to file an application in the Hon'ble Tribunal to continue as such. He is continuing there as BPM purely on his own interest and an incumbent is only entitled to draw the TRCA of a post which he holds. TRCA of a Gramin Dak Sevak is fixed to a specific post and it does not change at different point of time if different persons are appointed/ordered to function in the said post. The settled principle is that a person draws the TRCA of the post where he works and it does not alter if different persons hold the post at different points of time. The provision cannot be twisted to suit a particular person's interest."

9. The respondent No. 3 in the impugned order has stated that the applicant was entitled for the TRCA for the post he holds, without explaining the reason for payment of minimum TRCA to the applicant as GDSBPM of Mancheswar PO. It is observed that the order dated 31.3.2011 (Annexure-A/2) by which the applicant was deployed to work as GDSBPM of Mancheswar Post Office, stated as under:-

"The following temporary arrangement is hereby ordered to have immediate effect.

Sri Rabindranath Biswal, GDSMD, Naharkanta BO i/a/w/ Baliana SO will relieve Sri Siba Prasada Jena (I/C) BPM, MRC R/S BO providing his own substitute in his place on his self responsibilities with immediate effect and he will get his existing TRCA. He should note that his substitute should not be allowed for more than (89) eighty nine days at a stretch and he should not take more than 180 days in a year.

He should remit Rs.125/- one hundred twenty five only to the Hon'ble Secretary, PCMS of Burdwan Ltd. Burdwan, West Bengal from date of assumption on GDSV PM MRC R/S BO towards security money."

It appears from above order that as per the order at Annexure-A/2, the applicant is entitled to get his existing TRCA and not the TRCA applicable for the post of GDSBPM. No other order has been furnished by the respondents by which the order at Annexure-A/2 was modified to allow the TRCA for the post the applicant was holding (i.e. for the GDSBPM, Mancheswar PO). No order or document has been furnished to show that the order at Annexure-A/2 was incorrect as far as the TRCA of the applicant was concerned and the applicant's TRCA was correctly fixed by the competent authority as per the rules.

10. Further, if any excess amount was paid to the applicant towards TRCA, then it was necessary to allow an opportunity of hearing to the applicant and then pass an order showing if any excess amount was paid to him as TRCA and the manner of recovery as per the provisions of law. No such order has been passed by the respondents before deciding to recover some amount as decided by the authority concerned behind the applicant's back and the contentions in para 4.10 of the OA has not been contradicted by the respondents enclosing copy of any order passed by the competent authority about the recovery being made from the applicant's TRCA. Clearly, such action violated the principles of natural justice and it is not legally sustainable.

11. In the facts and circumstances as discussed above, the impugned order dated 30.12.2013 (Annexure A/11 of the OA) is quashed and the Respondent No.3 is directed to fix the TRCA of the applicant payable from November, 2012 onwards in accordance with the law taking into consideration the order dated 31.3.2011 (Annexure A/2 of the OA) by passing an appropriate order under intimation to the applicant. If the applicant is found to be entitled for higher TRCA, then differential amount towards arrear TRCA from November, 2012 shall be paid to the applicant. These directions will be complied by the respondents within two months from the date of receipt of a copy of this order. If the applicant will still be aggrieved by the order of the respondent no.3 as per above directions, then he may file a representation before respondent no.2 giving justifications, within one month and if such a representation is filed, then the respondent no.2 will dispose it of by passing a speaking order under intimation to the applicant within two months from the date of filing of such representations.

12. The OA is allowed to the extent as above. There will be no order as to cost.

(SWARUP KUMAR MISHRA)  
MEMBER (J)

(GOKUL CHANDRA PATI)  
MEMBER (A)