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CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH, CUTTACK.

ORIGINAL APPLICATION NO. 119 OF 1992
Cuttack, this the 25th day of July 2000

Srikant Kumar Mallick and another ...Applicants
Vrs.

Union of India and others Respondents

FOR INSTRUCTIONS

1. Whether it be referred to the Reporters or not? Yes
2. Whether it be circulated to all the Benches of the Central Administrative Tribunal or not? No

(G.NARASIMHAM)
MEMBER(JUDICIAL)



(SOMNATH SOM)
VICE-CHAIRMAN

Somnath Som
25.7.2000

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CORAM:

HON'BLE SHRI SOMNATH SOM, VICE-CHAIRMAN
AND
HON'BLE SHRI G.NARASIMHAM, MEMBER(JUDICIAL)

.....

1. Srikanta Kumar Mallick, aged about 30 years, son of Gopinath Mallick, at present UDC (SBCO), Postal Department, At/PO-Phulbani, Dist.Phulbani.
2. Simanchal Das, aged about 29 years, son of Ananta Charan Das, at present UDC (SBCO), Postal Department, At/PO-Bhanjanagar, Dist.Ganjam.

..... Applicants

Advocates for applicants - M/s P.V.Ramdas
B.K.Panda
D.N.Mohapatra
M.B.K.Rao

Vrs.

1. Union of India, represented by the Secretary, Ministry of Communications, Government of India, New Delhi.
2. Director General, Posts, Dak Bhawan, New Delhi.
3. Chief Postmaster General, Orissa Circle, Bhubaneswar, Dist.Puri ...

Respondents

Advocate for respondents -Mr.Aswini
Ku.Mishra
Sr.Panel
Counsel

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SOMNATH SOM, VICE-CHAIRMAN

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In this application the two petitioners have prayed for a direction to the respondents to give them promotion under TBOP Scheme from the date their juniors were promoted and also to direct the respondents to allow the applicants to be merged with the rank of LSG (Functioning) Cadre of SBCO suitably modifying the TBOP Scheme at Annexure-1. The last alternative prayer is for a direction to the respondents to give promotion to the applicants under the said scheme to the corresponding pay

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scale of Rs.1600-2660/- on completion of 16 years of service and to allow them to continue as UDC.

2. The petitioners were Upper Division Clerks (UDCs) in the Postal Savings Bank Control Organisation (SBCO). The applicants have stated that internal audit function of Savings Bank work of the post offices was taken over from Auditor General, Posts & Telegraphs in phases during the period from 1961 to 1965 and SBCO came into existence in each Head Post Office throughout the country for maintaining Savings Bank and other accounts. Staff working in SBCO and Circle Pairing Unit and Internal Check Organisation (SB) belong to one single unit. In SBCO the following categories of staff were there with different pay scales mentioned against each:

(i)	LDC - Rs.950-1500/-
(ii)	UDC - Rs.1200-2040/-
(iii)	Supervisor - Rs.1400-2300/- (LSG)
(iv)	Sr. Supervisor - Rs.1600-2660/- (HSG-II)
(v)	Chief Supervisor - Rs.2000-3200/- (H SG-I)

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They have mentioned that post of UDC is filled up to the extent of 20% from amongst the LDCs on the basis of seniority-cum-fitness and 30% by departmental examination amongst the LDCs and the balance 50% from amongst Time Scale Postal Assistants working in the general line in the Head Post Offices on the basis of Departmental Examination. Surplus vacancies under 30% and 50% quota are filled up by direct recruitment. Staffing pattern in the general line consisted of Postal Assistant (Rs.975-1660/-), Assistant Post Master (Rs.1400-2300/- LSG), HSG-II (Rs.1600-2660/-) and HSG-I (Rs.2000-3200/-).



They have stated that post of UDC in the SBCO in the scale of Rs.1200-2040/- was promotional post for both LDCs of SBCO and Postal Assistants of Post Offices. Thus, UDC in SBCO carried the higher responsibility than the two feeder cadres. The Department introduced Time Bound One Promotion (TBOP) Scheme with effect from 1.8.1991 for providing larger promotional avenues to the employees. Under the Scheme an individual employee on completion of 16 years of service in the basic grade is promoted as LSG. In other words, a Postal Assistant in the general line in the pay scale of Rs.975-1660/- would get promotion subject to his having satisfactory service to the LSG scale of Rs.1400-2300/-. Under the Scheme UDCs who do not opt for the scale of Rs.975-1660/- will continue in the old scale of pay personal to them. Under the Scheme no provision was made for promoting seniors on the date when juniors got promotion under the Scheme. With the coming into force of the TBOP Scheme the applicants were asked to exercise option and the applicants opted to come over to the cadre of Postal Assistant, SBCO in the pay scale of Rs.975-1660/-. They have stated that the pay scale of LSG in SBCO, i.e., Rs.1400-2300/- is akin to the pay scale of UDC in SBCO at Rs.1200-2040/- and therefore the existing posts of UDC should have been merged with LSG or alternatively UDCs should have been given a separate scale and should have been given further promotion to the scale of Rs.1600-2660/-. On the above grounds, they have come up with the prayers referred to earlier.

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3. The respondents in their counter have opposed the prayers of the applicants. They have stated that TBOP Scheme which was introduced for the staff in general line with effect from 30.11.1983 was extended to the staff in SBCO with effect from 1.8.1991 in the circular dated 26.7.1991 at Annexure-1 of the OA. They have stated that this Scheme was introduced for providing greater promotional opportunities to the staff in SBCO. It is further stated that seeking better promotional facilities Delhi Branch of SBCO Employees Association had filed applications before the Principal Bench and various staff unions had filed similar petitions in different Benches of the Tribunal and also before the Hon'ble High Court of Calcutta. Their demand for 80% higher grade posts could not be accepted and therefore after examining the whole question, a proposal for restructuring the cadre of SBCO staff on the similar pattern prevailing in the operative offices was considered for introduction. Before introduction, this was discussed with various SBCO staff unions and only with their agreement the Scheme was implemented in the larger interest of the staff working in SBCO. They have further stated that the petitioners joined as LDC in the pay scale of Rs.260-400/- (revised Rs.950-1500/-) on 27.2.1984 and 15.2.1984 respectively. After becoming successful in the departmental examination for promotion to the cadre of UDC, they became UDC with effect from 2.3.1990 and 5.10.1990. They have stated that both the applicants had not completed sixteen years of service in the basic grade as on 1.8.1991 for promotion under TBOP Scheme. They have further stated that the Scheme provided that persons who do not want to opt for the Scheme, can retain their old scale of pay which would be personal to them. They have stated that the applicants having exercised their option to come



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under the Scheme at Annexure-1, cannot now question the scheme. They have also stated that before implementation of the Scheme, the officials in the LDC cadre in SBCO used to retire only as UDC. But after coming into force of the Scheme, after sixteen years of service they get promotion to LSG cadre and after 26 years to HSG-II cadre. The Scheme is therefore to the benefit of the SBCO staff. On the above grounds, the respondents have opposed the prayer of the applicants.

4. We have heard Shri P.V.Ramdas, the learned counsel for the petitioners and Shri Aswini Kumar Mishra, the learned Senior Panel Counsel appearing for the respondents and have also perused the records.

5. In the Scheme enclosed by the applicants at Annexure-1 it has been provided that post of LDC (Rs.950-1500/-) and the post of UDC (Rs.1200-2040/-) in the SBCO and Internal Check Organisation will be abolished and equal number of Time Scale Postal Assistants in the pay scale of Rs.975-1660/- will be created. All the existing LDCs and UDCs will be required to furnish, within one month, their option according to which they may, if so like, retain their old pay in the existing scale of pay which would be personal to them. Their posts in the existing pay scale will be converted as Postal Assistants(SBCO) as and when they cease to hold those posts. It is also provided that the officials who opt for the old scale will continue to be governed by the conditions as are applicable thereto as at present. From the above it is clear that under the scheme the petitioners were given option either to opt to come under the scheme or to opt out. The



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 applicants have knowingly opted to come under the scheme and therefore they cannot question the scheme on the ground that by such option their interest is adversely affected.

6. Their particular grievance is that with the coming into force of the scheme the designation of LDC of SBCO (Rs.950-1500/-) and UDC of SBCO (Rs.1200-2040) will be changed to Postal Assistants (SBCO) in the pay scale of Rs.975-1660/- and thereby the distinction earlier maintained in SBCO between LDC and UDC will be wiped out and both will be treated as Postal Assistants and in the process the UDC will have to opt for a lower scale of pay of Rs.975-1660/- though presently they are enjoying the scale of Rs.1200-2040/. We have considered the point carefully. The respondents have pointed out that the scheme has been introduced with the agreement of the SBCO employees union and with a view to provide larger promotional facilities to the SBCO staff. Earlier an LDC of SBCO used to retire as UDC, there being few posts beyond the level of UDC, in the LSG cadre with the pay scale of Rs.1400-2300/. Under the TBOP Scheme thus who would come over to the TBOP Scheme will be considered for first promotion to the LSG scale of Rs.1400-2300/- on their completion of 16 years of service as LDC or as UDC and LDC or as PA and UDC taken together. The Scheme also mentions in paragraph 1(x) that as a result of the grant of Time Bound One Promotion, a large number of LSG officials will be available for deployment. In other words, it is clear that prior to introduction of the Scheme, a large number of SBCO staff with total 16 years of service were either languishing as LDC or as UDC and they will now be entitled to be considered for promotion to the next higher grade of



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Rs.1400-2300/- . In view of this, it cannot be said that the scheme is not beneficial and against the interest of SBCO staff.

7. As regards giving higher benefit to the UDC, SBCO because they were enjoying the higher scale of Rs.1200-2040/-, the Scheme envisages that the basic cadre would be converted to Postal Assistant and the scale of pay will be Rs.975-1660/- and this will be applicable for both LDC and UDC who do not opt out of the TBOP Scheme. Thereafter on completion of 16years of service they will automatically get promotion irrespective of availability of posts whereas under the old staffing pattern in SBCO, an UDC in the pay scale of Rs.1200-2040/- could be promoted to the post of Supervisor (LSG) in the pay scale of Rs.1400-2300/- only when post of Supervisor (LSG) was available. From this it is clear that by introduction of the Scheme substantial benefit has been conferred on the SBCO staff and presumably because of this the applicants have chosen not to opt out of the scheme. While doing so, they must have considered the pros and cons of retaining the old post and the scale, and the pros and cons of opting out of the scheme or coming over to the scheme. The scheme also provides that option once exercised will be final. In view of this, the applicants cannot now question the scheme after having opted to come over to the scheme.

8. Moreover, in a subsequent circular issued by Director General, Posts, on 8.2.1996 it has been provided that when a junior gets promotion under the TBOP Scheme to LSG cadre after having put in 16 years of satisfactory service, persons who are in



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higher grade would also be considered for such promotion with effect from the date of promotion of the junior even though such senior persons might not have completed the required 16 years of service. Thus, the applicants having joined in 1984 as LDC and having become UDC in 1990, will be considered for promotion to LSG cadre with effect from the date their juniors in LDC cadre get promotion to LSG. This is also another benefit which has been subsequently given under the Scheme.

9. In view of all the above, we hold that the applicants are not entitled to the reliefs claimed by them. The Original Application is accordingly rejected. No costs.

(G.NARASIMHAM)

MEMBER(JUDICIAL)

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(SOMNATH SOM)

VICE-CHAIRMAN

25-7-2000

July 25, 2000/AN/PS

