CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH

O.A.Nos. 290, 301,463, 307,537 and 538 of 2007 and O.A.Nos. 18 and 22 of 2008
Cuttack, this the 25th day of January,2010

Sri Subhransu Kumar Mohanty, etc. ..... Applicants

Vrs.

Union of India and others .....Respondents

FOR INSTRUCTIONS

1) Whether it be referred to the Reporters or not?

2) Whether it be sent to the P.B., CAT, or not?

(C.R.MOHAPATRA)
ADMINISTRATIVE MEMBER

(K.THANKAPPAN)
JUDICIAL MEMBER

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH

O.A.Nos. 290, 301,463, 307,537 and 538 of 2007 and O.A.Nos. 18 and 22 of 2008
Cuttack, this the 25th day of January,2010

CORAM:
HON'BLE SHRI JUSTICE K.THANKAPPAN, JUDICIAL MEMBER
AND
HON'BLE SHRI C.R.MOHAPATRA, ADMINISTRATIVE MEMBER

.....

In OA No.290 of 2007
Sri Subhransu Kumar Mohanty, aged about 54 years, son of late Pratap Chandra Mohanty, presently working as BCR PA, SBCO, Chandinichowk H.O, Dist.Cuttack, Orissa 753002

In OA No.301 of 2007
Sri Subash Chandra Sethy, aged about 52 years, son of Raju Sethy, presently working as BCR PA, SBCO, Chatrapur, H.O. Dist.Ganjam, Orissa.

In OA No.307 of 2007
Sri Pratap Kumar Rath,a ged about 45 years, son of late Ganesh Rath, presently working as TBOP PA, SBCO, Chatrapur H.O., Dist.Ganjam, Orissa.

In OA No.463 of 2007
Sri Subodh Chandra Barai, aged about 44 years, son of late Lalchand Barai, presently working as TBOP PA, SBCO, Jeypore H.O., Dist.Koraput.

In OA No.537 of 2007
Sri Sahadeb Munda, aged about 44 years, son of Lochan Munda, presently working as TBOP PA, SBCO, Keonjhargarh H.O, Dist.Keonjhar,Orissa.

In OA No.538 of 2007
Sri Muralidhar Naik, agedabout 43 years, son of Mohan Charan Naik, presently working as TBOP PA, SBCO, Keonjhargarh H.O.,Dist.Keonjhar, Orissa

In OA No.18 of 2007

1. Bipin Bihari Mallik, son of late Dinabandhu Mallik, BCR PA, SBCO, Cuttack GPO, Dist.Cuttack 753001
2. Sarbeswar Giri, son of late Baidyanath Giri, BCR PA,SBCO, Udit Nagar H.O., Rourkela, Dist. Sundargarh.
3. Narendra Bhoi, BCR, PA, SBCO, Rourkela H.O., Dist.Sundargarh.

In OA No.22 of 2008

1. Fakir Charan Das, son of Mathuri Ch.Das, BCR PA, SBCO,Chandini Chowk H.O., At/PO Chandinichowk, Cuttack 2
2. Harekrushna Nayak, son of Fakir Charan Nayak, Supervisor SBCO, Bhadrak H.O., At/PO/Dist.Bhadrak
3. Chandra Sekhar Jena, son of late Bairagi Ch.Jena, Supervisor SBCO, Jajpur H.O, At/PO/Dist.Jajpur.
4. Sikhar Behera, son of late Udayanath Behera, BCR, PA ICO (SB),O/O CPMG, At/PO Bhubaneswar, Dist.Khurda 751001
5. Niranjan Mallick, son of Indramani Mallick, Supervisor, SBCO,Nayagarh H.O, At/PO/Dist. Nayagarh.
6. Dandadhar Behera, son of late Padana Behera, Supervisor, SBCO, Puri H.O, At/PO/Dist.Puri
7. Ratnakar Sahoo, son of Kapila Sahoo, BCR PA SBCO, Bhubaneswar GPO,At/PO Bhubaneswar,Dist. Khurda.
8. Sri Padmanav Das, son of late Jadumani Das, BCR PA, SBCO, Kendrapara HO,At/PO/Dist.Kendrapara.
9. Kedar Nath Biswal, son of late Srinibas Biswal, BCR PA SBCO, Jagatsinghpur, H.O., At/PO/Dist.Jagatsinghpur
10. Babulal Mohanta, son of late Anukul Mohanta, BCR PA SBCO, Rairangpur HO, At/PO Rairangpur,Dist.Mayurbhanj.
11. Ganeswar Mohanta, son of late Kanaka Mohanta, BCR PA SBCO, Baripada HO,At/PO Baripada, Dist.Mayurbhanj.
12. Damodar Panda, son of Harekrushna Panda,BCR PA SBCO, Bhadrak HO, At/PO/Dist.Bhadrak
13. Naran Bandhu Mahapatra,son of late Antaryami Mohapatra,BCR PA, SBCO,Bhubanswar GPO

.....Applicants

Advocates for the applicants - M/s Pravat Kumar Padhi and J.Mishra.

Vrs.

In all the cases:

1. Union of India, represented through its Director General of Posts,Dak Bhawan, New Delhi 110001.

2. Chief Post Master General (Orissa Circle), At/PO Bhubaneswar,Dist. Khurda.
3. Director of Postal Services (Hqrs), At/PO Bhubaneswar,Dist. Khurda
4. Sri Dinabandhu Saran, Retd.BCR PA, SBCO,At-Rajada, P.O.Kasagumudu, Via/PS/Dist. Nawarangpur

..... Respondents

Advocates for Respondents - Mr.S.Barik, ACGSC,
Mr.B.N.Udgata,ACGSC
Mr.S.Mishra, ACGSC
Ms. Swapna Mohapatra, ACGSC
Mr.U.B.Mohapatra
Mr.PRJ Dash, ACGSC,

ORDER

Justice K.Thankappan, Judicial Member

Since the points to be determined arise out of similar facts and circumstances, all the above mentioned Original Applications are being disposed of by this common order. For the sake of convenience, the facts as set out in O.A.No.290 of 2007 are being referred to.

2. The applicant in OA No. 290 of 2007 joined as L.D.C. in the S.B.C.O., Postal Department, on 8.11.1977 and was promoted as U.D.C. on 27.4.1981. Both L.D.C. and U.D.C. cadres were merged forming the cadre of Postal Assistant, S.B.C.O. w.e.f. 1.8.1991. Respondent No.4 was initially appointed as Primary School Teacher under Dandakaranya Development Project on 1.4.1969. The Dandakaranya Development Project being wound up, he was declared surplus and redeployed as L.D.C. in the S.B.C.O., Postal Department, on 3.10.1987 and in effect became junior to the applicant in all respects. The applicant was placed at Sl.No.24 of Section III of the Gradation List whereas respondent No.4

was placed at Sl.No.18 of Section IV of the Gradation List (Annexure A/1). On the basis of the order passed by this Tribunal in O.A.No.406 of 2003, the Respondent-Department granted the benefits under the Time Bound One Promotion (TBOP)Scheme and the Biennial Cadre Reviews (BCR) Scheme w.e.f. 1.8.1991 and 1.7.1995 respectively, but the applicant was granted such benefits w.e.f. 21.9.1991 and 1.1.2004, i.e., nearly two months and 9 years respectively after the Respondent No.4. The applicant's representation dated 25.4.2007(Annexure A/2) to the Respondent-Department to step up his pay at par with that of Respondent No.4 having been rejected by the Respondent-Department vide Annexure A/3, he has filed the present O.A. for the following relief:

> "In view of the facts stated above, it is humbly prayed that the Hon'ble Tribunal may graciously be pleased to quash Annexure A/3 and further be pleased to direct the respondent No.1 to 3 to fix the pay of the applicant at par with Respondent No.3 in T.B.O.P. and B.C.R.Scale of pay from the date Respondent No.4 got the benefits of T.B.O.P. & B.C.R.Scale of pay, with all consequential benefits with interest (as per G.P.F. interest) and cost."

3. Since the O.As. have been admitted by this Tribunal and notices ordered, counter affidavits have been filed on behalf of the Department separately in respective O.As. The stand taken in the counter affidavits is that the 4th Respondent has been allowed the benefit of the Schemes introduced by the Department on the basis of an order passed by this Tribunal in OA No.406 of 2003 and that the applicants are not

entitled to get their pay stepped at par with that of the 4th Respondent. The further stand taken in the counter affidavits is that as per clarification given by the Department of Posts contained in the letter dated 26.7.2007 (Annexure R/5), the stepping up of pay is granted under FR 22 (C) in order to remove anomaly of a Government servant promoted or appointed to a higher post as per the Recruitment Rules drawing a lower rate of pay in that post than another Government servant junior to him in the lower grade and promoted or appointed subsequently to another identical post. The official Respondents have stated that promotion of an incumbent under the T.B.O.P. or B.C.R.Scheme is not a promotion to the next higher post, but merely a placement in the next higher pay scale given only to those who complete 16 or 26 years of service, as the case may be.

4. The applicants have also filed rejoinders to the counter affidavits. In the rejoinders the applicants have relied on the judgment of the Hon'ble Supreme Court reported in 2005 SCC (L&S) 132, Union of India and others v. Leelamma Jacob and others, the judgment of the Hon'ble Calcutta High Court passed in W.P. C.T.No.553 of 2005, decided on 23.8.2005, the order dated 16.8.2004 passed by the Central Administrative Tribunal, Calcutta Bench, in OA No.1148 of 2003, Ranjit Kusum Choudhury & others v. Union of India and others, and the judgment of the Hon'ble High Court of Orissa in W.P. (C) No.14649 of

2005, Shri D.C.Mishra and others v. Union of India and others, in support of their claim.

5. We have heard Mr.P.K.Padhi, the learned counsel appearing for the applicants and the respective Standing Counsels appearing for the official respondents in different O.As. Though notice has been served on private Respondent NO.4, he has neither appeared nor filed any counter.

6. Mr.Padhi, the learned counsel appearing for the applicants, advanced his arguments on the following lines. First of all, the learned counsel submitted that the order of this Tribunal passed in OA No.406 of 2003 in favour of the 4th Respondent has to be reviewed by this Tribunal as by virtue of the said order, the Department has granted the benefits of the TBOP and BCR Schemes to all the officers who have been appointed either on transfer from other Department or on redeployment/reappointment from different Departments of the Government including that of the employees of the Dandakaranya Development Project. Even the appointment through these modes is considered as a basic appointment to the grade in the Department and in effect such incumbents including that of 4th Respondent cannot claim seniority over any of the applicants herein as the seniority list does not indicate the 4th Respondent's name above the applicants whereas it is an admitted case of the official Respondents that the applicants are senior to the 4th Respondent and similarly placed persons in the cadre of Postal

Assistants (SBCO). The second line of arguments of the learned counsel for the applicants is that the object of the TBOP and BCR Schemes is to confer benefits on the employees of the Department who have completed the requisite period of service in the Department, viz., 16 years or 26 years, as the case may be. If the service of the 4th Respondent in the Department is considered, he has not completed the requisite period of service to get the benefits under the Schemes. Even if the service of the 4th Respondent, which he had put in at the Dandakaranya Development Project has to be considered as the basis for calculating the period of service of 16 years or 26 years in the Department, that by itself does not stand to reason for rejecting the claim of the applicants for getting their pay stepped at par with that of the 4th Respondent. The applicants are getting less pay than that of the 4th Respondent who was appointed in the Department much after the appointment of the applicants in the Department. If so, as per the law relating to stepping up of pay or to set right an anomaly in the pay of the employees of the same cadre, the claim of the applicants has to be considered by this Tribunal in the light of the fact that the 4th Respondent is junior to them. The next line of arguments of the learned counsel for the applicants is that a similar question was raised before the Bangalore Bench and Madras Bench of the Tribunal and the decisions taken by the Tribunal clearly support the claim

of the applicants. The learned counsel also submitted that the decision in Lelamma Jacob's case is squarely applicable to the case in hand.

7. To the above arguments, the learned counsel appearing for the official Respondents submitted that none of the decisions relied on by the learned counsel for the applicants is applicable to the facts of the case in hand. The introduction of TBOP and BCR Schemes is only with an idea to give financial upgradation to the employees completing 16/26 years of service and while calculating such period, the service outside the P&T Department has also to be taken into account in the light of the judgments of the Hon'ble Supreme Court reported in JT 1998 SC 575 (Dwijen Chandra Sarkar and others v. Union of India), 1998 SCC (L&S) 1362 (Scientific Advisor to Raksha Mantri and another v. V.M.Joseph) and 1998 SCC (L&S) 1195 (A.P.State Electricity Board and others v. R.Parthasarathi and others).

8. On anxious consideration of the arguments of the learned counsel for the parties and on perusing the documents produced along with the O.As. and also the judgments cited by the learned counsel before this Tribunal, the questions to be answered are: (1) Whether grant of financial benefit/upgradation/placement under the TBOP/BCR Scheme of a junior having attained the requisite years of service can form the basis for extending such benefits in favour of an employee who is senior but has not completed the period of service fixed under such Schemes; and

(2)Whether the higher pay received by the 4th Respondent and similarly placed persons shall be a reason for stepping up the pay of applicants at par with that of the 4th Respondent and others.

9. The Department of Posts had introduced TBOP Scheme on 30.11.1983 for its Group 'C' and 'D' staff which was initially not extended to LDC/UDCs being a cadre common with other Departments. However, the TBOP Scheme was later on extended to the LDC/UDC of SBCO in the Post Offices with effect from 1.8.1991. To begin with the posts of LDC (Rs.260-1500) and UDC (Rs.1200-2040) in SBCO, except to the extent LDC/UDC opted to remain under the existing scale of pay, were abolished and equal number of Time Scale Postal Assistants (Rs.775-1660) were created. The remaining posts of LDC/UDC were to be converted to PA, SBCO as and when the LDC/UDC ceased to hold their posts. After conversion, the TBOP Scheme provided that on completion of 16 years of service as LDC or LDC/UDC or Postal Assistant/UDC taken together the pay would be raised to the next higher scale of Rs.1400-2300/-. The Department also introduced by its order dated 11.10.1991 the BCR Scheme applicable to its officials already covered by TBOP Scheme. Accordingly, after completion of 26 years of service their scale of pay would be raised to Rs.1600-2660/-. By the Department's letter dated 8.2.1996 it was decided that all the officials, such as, UDCs in the Circle Office and SBCO, LSG (both 1/3rd and 2/3rd),

P.O. and R.M.S.Accountants, whose seniority was adversely affected by implementation of BCR Scheme placing their juniors in the next higher scale of pay would be considered for next higher scale of pay from the date their immediate juniors became eligible for the next higher scale. It was also decided that the said decision would not be applicable to the officials who are senior to those officials brought on transfer under Rule 38, P&T Volume IV and were placed in the next higher scale of pay by virtue of length of service. The inter se seniority of the officials in the lower grade would be kept intact for the purpose of eligibility for promotion to next higher grade. In the Department's letter dated 5.8.1997 it has also been laid down that promotions under TBOP/BCR do not affect the seniority of officials in any manner as the same are based on the length of service of the officials concerned and not on the criterion of seniority. The judgment of the Hon'ble Supreme Court in the case of R.Prabhadevi and others v. Union of India and others, reported in 1998 SCC (L&S) 475 had been circulated by the Ministry of Personnel, Public Grievances and Pension, to different Departments, which was endorsed to the Heads of Postal Circles on 22.5.1998. According to the instructions and as per the judgment of the Hon'ble Supreme Court, seniority in a particular cadre does not entitle a public servant for promotion to a higher post unless he fulfills the eligibility condition prescribed by the relevant rules. A person must be eligible for promotion having regard to the

qualifications prescribed for the post before he could be considered for promotion. Seniority cannot be substituted for eligibility nor can it override in the matter of promotion to the next higher post. It was made clear therein that the TBOP and BCR Schemes are not promotions on the criterion of seniority against the norm based posts in higher grades, but only placements in the higher scales of pay on completion of 16 years and 26 years of service respectively. Eligibility condition is only the length of service and seniors in the gradation list will not be considered for the higher scale from the date their immediate juniors became eligible, without completing the prescribed length of service. However, seniority in the gradation list will remain intact for promotion to norm based posts (supervisory posts) as per seniority and fitness in their turn. In the instant case, the private Respondent No.4 was initially appointed as Primary School Teacher in Dandakaranya Project on 1.4.1969 and after being declared surplus, was redeployed as L.D.C. in the S.B.C.O., Postal Department on 3.10.1987. His seniority was fixed below the applicants who were admittedly appointed as LDC in the S.B.C.O., Postal Department, much after the appointment of the private Respondent No.4 as Primary School Teacher in the Dandakaranya Project. It is not disputed at the Bar that by placement of the 4th Respondent in the TBOP and BCR scales of pay w.e.f. 1.8.1991 and 1.7.1995 because of his having completed the requisite period of service prescribed in the said schemes

and in accordance with the orders passed by this Tribunal in OA No. 406 of 2003, the seniority of the private Respondent No.4 vis-à-vis the applicants in the basic grade of P.A. has undergone any change adversely affecting the prospect of promotion of the applicants to the norm based supervisory posts. In this view of the matter, we hold that grant of financial benefit/upgradation and/or placement of the 4th Respondent cannot be considered as a basis for allowing such benefits to the applicants having not completed the period of service fixed by such Schemes notwithstanding the fact that they are senior to the private Respondent No.4.

10. Coming to the next point, it has to be considered as to under what circumstances or under what provisions of rules, stepping can be made. As indicated earlier, in order to remove the anomaly of a Government servant promoted or appointed to a higher post drawing a lower rate of pay in that post than another Government servant junior to him in the lower grade and promoted or appointed subsequently to another identical post, the pay of the senior officer in the higher post should be stepped up to a figure equal to the pay as fixed for the junior officer in that higher post. Such anomaly should be directly as a result of the application of FR 22-C [now FR 22(I)(a)(1). If even in the lower post the junior officer draws from time to time a higher rate of pay than the senior, the provisions for stepping up will not be invoked to step up the

pay of the senior officer. The above provisions would clearly indicate that the placement of an employee in the higher pay scales under the TBOP or BCR Scheme on completion of the requisite period of service is not an in situ promotion or regular promotion as per rules. The 4th Respondent had claimed the benefit of the TBOP and BCR Schemes on calculating his previous service rendered in the Dandakaranya Project which was allowed by this Tribunal in OA No.406 of 2003. Besides, it is to be noted that stepping up pay or re-fixation of pay can be made only on the basis of some rules. A claim for stepping up pay can be made only on the basis of a legal right and not on any persuasive value of equity or equality unrelated to the context of statutory rules. In other words, if a junior officer draws a higher pay in the lower post either because of his advance increments or on any other ground, then the provisions of stepping up pay would not be made applicable. It is an agreed position of law that fair-play in action warrants that no order for re-fixation or stepping up pay should be made in case of an employee unless such employee suffers from any civil consequences. The claim of all the applicants is based on the ground of higher pay being allowed to the 4th Respondent or similarly placed persons. As we have already held, allowing a placement or even in a grade on the basis of TBOP or BCR Scheme is not a ground to claim higher pay at par with that of the junior employees who have got that benefit. In this context, it could be seen that the Hon'ble Supreme Court,

while considering the facts in Dwijen Chandra Sarkar and others v. Union of India and another, JT 1998 SC 575, held thus:

> "It is to be noted that the transfer of the appellants from the Rehabilitation Department to the P&T Department was not on their request but was expressly stated to be in the public interest. But while doing so, it was clarified that their past service in the Rehabilitation Department would not count for 'seniority'. The purpose of this restriction was that their transfer should not disturb the chances of promotion of those who were already working in the P&T Department. There is no doubt that for the purpose of their regular promotions to higher posts in the P&T Department their seniority is to count only from the date of their transfer to the P&T Department. The transfer order imposed this restriction. We are not concerned with the validity of this restriction. All that it means is that these two transfers will not alter the existing seniority of those in the P&T Department.
>
> However, the position in regard to 'time-bound' promotions is different. Where there are a large number of employees in any Department and where the employees are not likely to get their comparatively low position in the seniority list, Government has found it necessary that in order to remove frustration, the employees are to be given a higher grade in terms of employments – while retaining them in the same category. This is what is generally known as the time bound promotion. Such a time-bound promotion does not affect the normal seniority of those higher ups.
>
> If that be the true purpose of a time-bound promotion which is meant to relieve frustration on account of stagnation, it cannot be said that the government wanted to deprive the appellants who were brought into the P&T Department in public interest – of the benefit of a higher grade. The frustration on account of stagnation is a common factor not only of those already in the P&T Department but also of those who are administratively transferred by Government from the Rehabilitation Department to the P&T Department. The Government,

while imposing an eligibility condition of 16 years service in the grade for being entitled to time-bound promotion, is not intending to benefit only one section of employees in the category and deny it to another section of employees in the same category. The common factor for all these employees is that they have remained in the same grade for 16 years without promotions. The said period is a term of eligibility for obtaining a financial benefit of higher grade.

If the appellants are entitled to the time-bound promotion by counting service prior to joining the P&T Department, the next question is whether treating them as eligible for time-bound promotion will conflict with the condition imposed in their transfer order, namely that these will not count their service for seniority purposes in the P&T Department".

Further, in the same judgment, the Hon'ble Apex Court held:

"The words "except seniority" in the 1983 circular, in our view, mean that such a benefit of a higher grade given to the transferees will in no way affect the seniority of employees in the P&T Department when the turn of the P&T employees comes up for promotion to a higher category or post. The said words 'except seniority' are intended to see that the said persons who have come from another Department on transfer do not upset the seniority in the transferee Department. Granting them higher grade under the Scheme for time-bound promotion does not therefore offend the condition imposed in the transfer order. We, are, therefore, of the view that the appellants are entitled to the higher grade from the date on which they have completed 16 years and the said period is to be computed on the basis of their total service both in the Rehabilitation Department and the P&T Department."

The Hon'ble Supreme Court in A.P. State Electricity Board and others v. R.Parthasarathi and others, 1998 SCC (L&S) 1195, held as follows:

"3. It appears to us thatit has not been indicated in the service regulation that such experience of ten years must be in the service of the State Electricity

> Board of Andhra Pradesh. In our view, if an employee of the Andhra Pradesh Electricity Board has obtained total experience of ten years by serving partly in the State Government and partly in the Andhra Pradesh State Electricity Board, such employee fulfils the criterion of eligibility for being considered for promotion to the said post of Assistant Executive Engineer. It may be indicated that there is no dispute to the fact that when an employee is permanently absorbed in the service of the A.P.State Electricity Board, his seniority will be fixed below junior Assistant Engineers already working in the Electricity Board. Such inter se seniority will be a relevant factor when a number of employees come in the zone of consideration on the basis of ten years' experience for being considered for promotion to the post of Assistant Executive Engineer. Mere seniority in the cadre will not enable an employee to be considered for such promotion if he lacks experience of ten years as indicated. The High Court, in our view, has misread the said Regulation 14 by taking into consideration clause (h) of the conditions of absorption in the service of the State Electricity Board. Such clause (h) has nothing to do with the question of promotion under Regulation 14 of the Service Regulation Act. In the aforesaid circumstances, the impugned order of the Division Bench of the High Court cannot be sustained and the same is set aside..."

In the light of the above judgments of the Hon'ble Supreme Court, we have to consider whether the verdict in Leelamma Jacob's case (supra) is applicable to the case in hand or not. That was a case where both the Tribunal as well as the Hon'ble Apex Court considered the question of seniority of the officials in Grade II who had earned promotion under the statutory rules on the basis of departmental examination in 1981 and their claim for promotion to Grade III under the BCR Scheme introduced

by the P&T Department, Telecommunication Branch, with effect from the date their juniors in Grade I were promoted to Grade III. Promotion of the juniors of the Respondent-officials on the basis of their having completed the requisite period of service prescribed under the BCR Scheme over the head of their seniors, thereby obliterating the promotions earned by the seniors under the statutory rules, was held unsustainable by the Tribunal as well as the Hon'ble Supreme Court and thus was the reason for interference by the Tribunal as well as Hon'ble Apex Court, whereas the applicants herein claim that since the 4th Respondent being junior is getting higher pay, their pay should be stepped up at par with that of the 4th Respondent. In this connection, we may add that an employee may receive higher pay on various reasons, such as, due to counting his previous service in other Department or advance increments, etc., but that by itself cannot be a reason for counting his seniority in the Department as a whole. The TBOP and BCR Schemes stipulate that seniority position of the employees will not change even if any employee is given the benefit under the Scheme. Viewed from this, extension of benefit under the TBOP and BCR Schemes in favour of an incumbent is purely personal without having regard to the principle of seniority. However, we have gone through the decisions cited by the learned counsel for the applicants and found that in none of the decisions it has been held that the senior officials in the basic grade of

PA have a right to get his pay stepped up at par with that of his junior officials in the basic grade with effect from the date of placement of the junior officials in the higher pay scale under the TBOP or BCR Scheme, as the case may be. In the instant case, the 4th Respondent on his redeployment as LDC in the S.B.C.O., Postal Department, was entitled to get his pay fixed at a higher stage in the time scale than that of the applicants, although he was placed below the applicants in the seniority list of the cadre. As per the decisions of the Hon'ble Supreme Court in Dwijen Chandra Sarkar's case and the order passed by this Tribunal, the 4th Respondent was granted the benefits under the TBOP and BCR Schemes before such benefits could be granted to the applicants and this cannot be held a basis for stepping up pay of the applicants at par with that of the 4th Respondent. The ratio of the decisions cited by the applicants having emerged from different and distinct facts and circumstances unlike the present O.As., in our considered view, will be of no help to the applicants.

11. Having regard to what has been discussed above, we would answer the points in issue in precise terms that (1) grant of financial benefit/upgradation and/or placement under the TBOP/BCR Scheme in favour of a junior having completed the requisite years of service cannot form the basis for extending such benefits in favour of an employee who is senior but has not completed the period of service fixed under the said

Schemes as such conferment is purely personal and is not dictated by the principle of seniority, and (2) in effect the applicants though senior have no right to get their pay stepped at par with that of the private Respondent No.4 and others who are their juniors.

12. Having answered the points in issue in the negative, we hold that the applicants have not been able to make out a case for the relief claimed by them. Resultantly, all the Original Applications being devoid of merit are dismissed. No costs.

(C.R.MOHAPATRA)
ADMINISTRATIVE MEMBER

(K.THANKAPPAN)
JUDICIAL MEMBER

PPS