

**CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH, JODHPUR**

Original Application No. 117/2012

Jodhpur, this the 14th day of February, 2014.

CORAM

**Hon'ble Mr.Justice Kailash Chandra Joshi, Member (Judicial)
Hon'ble Ms Meenakshi Hooja, Member (Administrative)**

Chunni Lal Nai S/o Tulsi Ram Nai, aged 65 years, resident of C/o Mahendra Jain, Ward No. 4/1195, Kachchi Basti, Sajjan Nagar, Udaipur, Last employed on the post of GDSMC at Rani Road Sub Post Office, Udaipur.

.....Applicant

By Advocate: Mr J.K. Mishra

Versus

1. Union of India through Secretary to the Govt. of India, Department of Posts, Ministry of Communications & IT, Dak Bhawan, Sansad Marg, New Delhi-110001.
2. The Director, O/O PMG, Rajasthan Southern Region, Ajmer.
3. Senior Superintendent of Post Offices, Udaipur Division, Udaipur.

.....Respondents

By Advocate : Ms. K. Parveen

ORDER (Oral)

Per Justice K.C. Joshi, Member (J)

The present OA has been filed by the applicant to quash order Ann. A/1 by which respondent-department denied the applicant to pay TRCA for work load of more than 3 hours 45 minutes, therefore, he has prayed for the following reliefs:-



- I. That impugned order dated 15.02.2012 (Ann. A/1) may be declared illegal and the same may be quashed. The respondents may be directed to fix and grant the pay of the applicant on the post of GDS Mail Carrier in the pay scale of Rs 3635-65-5385 for work load of more than 3 hours 45 minutes upto 5 hours w.e.f. 01.07.2006 as per rules in force and allow all consequential benefits including revision of his retiral benefits e.g. Gratuity etc. and due arrears of difference of pay and gratuity amount may be directed to be paid along with market rate of interest.**
- II. That any other direction, or orders may be passed in favour of the applicant which may be deemed just and proper under the facts and circumstances of this case in the interest of justice.**
- III. That the costs of this application may be awarded.**

2. Short facts of the case as averred by the applicant are that the applicant was initially appointed to the post of Extra departmental Branch Postmaster (EDBPM) in the year 1974 now redesignated as GDSBPM and transferred to the post of Gramin Dak Sevak Mail Carrier (GDSMC) at Rani Road, Udaipur vide order Ann. A/2. The applicant took over charge as GDSMC at Rani Road on 01.07.2006 and he performed his duties from 1030 hrs to 1630 hrs i.e. for 6 to 7 hours a day. It has been averred in the application that Section VI TRCA Bonus and other Allowances of Service rules for Postal Gramin Dak Sevak prescribes to pay and allowances payable to GDS w.e.f. 1.1.2006 and scale of GSNC held by the applicant is in the pay scale

of Rs 3635-65-5385 for work load of more than 3 hours 45 minutes upto 5 hours. The applicant was paid the salary in the pay scale of RS 2745-50-4245 w.e.f. 1.7.2006 meant for GDSBPM and that too for work load for less than 3 hours and not as per his actual working as GDSMC that too for more than 3 hours and 45 minutes. The applicant retired from the post of GDSMC w.e.f. 3.6.2011 on attaining the age of superannuation. It has also been averred in the OA that one Shri Bansi Lal Mali employed on the post of GDSMC is being paid in the pay scale meant for GDSMC for work load of more than 3 hours 45 minutes upto 5 hours. The applicant submitted the representation agitating the above facts in respondent-department but the same has been rejected vide Ann. A/1. Hence, this OA has been filed seeking the reliefs mentioned in para No. 1.

3. By way of reply, respondent-department denied the right of the applicant for grant of TRCA for work load of more than 3 hours 45 minutes and has averred that the applicant submitted an application to the SSPOs, Udaipur requesting him to attach him as GDSMC due to his personal problems i.e. threatening of murder given to him by some villages of village Sultan ji Ka Kherwara and the respondents on humanitarian ground allowed the applicant to be attached as GDSMC Udaipur Station PO for the time being from Sultan Ji Ka Kherwara. Meanwhile post of GDSMC Rani Road fell vacant and the ASPOs (Central) Udaipur attached the applicant on the post of GDSMC Udaipur Rani Road. It has been averred in the reply that the applicant was initially appointed as GDSBPM and his pay was fixed

under TRCA I in the scale of Rs 2745-50-4245 which is for the work load of upto 3 hours (Ann. A/5) and his TRCA was fixed at Rs 3595/- w.e.f. 1.1.2006 and his TRCA protected upto his retirement through the workload of GDSMC Udaipur Rani Road TSO which was found 168 minutes (less than 3 hours) and 225 minutes respectively on review by the ASPOs (Central) Udaipur in the year 2008 and year 2011 respectively. As per due mail and sorting list of Udaipur Rani Road TSO, the duty of the applicant started from 1200 hrs to pick up account bag from Udaipur HO to Rani Road PO and come back with account bag from Udaipur Rani Road PO to Udaipur HO at 1605 hrs including ½ hours luch break. It clearly shows that the applicant was entitled to get II TRCA for 3 hours to 3 hours 45 minutes i.e. Rs 2870-50-4370 i.e. Rs 2870/- w.e.f. 1.7.2006 whereas he was paid TRCA Rs 3595/- per month w.e.f. 1.1.2006 by protecting the TRCA drawn on his original post i.e. GDSBPM. It has been averred in the reply that the TRCA of Shri Shakir Hussain predecessor of the applicant, was protected on revision of duty and TRCA of Shri Bansi Lal Mali successor of the applicant was protected as per workload of GDSMC Udaipur Tourist Complex PO. It has further been averred in the reply that the applicant did not make any representation in this regard till his retirement upto 13.6.2011 as he was well aware that he was getting TRCA more than his entitlement and now that applicant has filed this OA hiding the fact that he was engaged as GDSMC as per his specific request. Therefore, the respondents prayed to dismiss the OA even without going into the merits.

4. By way of rejoinder, the applicant reiterated the same facts as averred in the OA and disputed the question of facts.

5. Heard both the parties. Counsel for the applicant contended that Shri Shakir Hussain, predecessor of the applicant and Shri Bansi Lal Mali successor to the applicant, both were allowed TRCA for workload of more than 3 hours and 45 minutes whereas in the case of the applicant, he was considered for TRCA for workload of 3 hours 45 minutes after deduction of $\frac{1}{2}$ hours as lunch period. Counsel for the applicant contended that the respondent-department acted illegally, irregularly and intentionally denied the benefit of due TRCA to the applicant for duty period of 6 to 7 hours. He further contended that even as per the reply filed by the respondent-department the applicant works from 1200 hrs to 1605 hrs; thus, period spent on duty is more than 3 hours and 45 minutes. Therefore, the applicant is entitled for TRCA as per Ann. A/4 S.No. 4 and therefore, the order Ann. A/1 required to be set aside by which representation of the applicant was rejected and respondents may be directed to pay the applicant TRCA as per Ann. A/4 S.No. 4 clause (3).

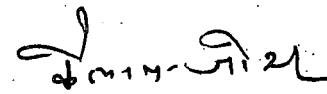
6. Per contra counsel for the respondents contended that the applicant's attachment to the Rani Road was made in pursuance to his own request and TRCA of work load for 3 and $\frac{1}{2}$ hours excluding the $\frac{1}{2}$ hour lunch hours was paid to the applicant in accordance with the law. Therefore, Ann. A/1 does not require any interference.

7. Considered rival contentions of both the parties. As per the contentions raised by both the counsels question of facts is involved in the OA. The applicant submits that the applicant worked for more than 3 hours and 45 minutes and respondents submit that after deduction of $\frac{1}{2}$ hour of lunch, the applicant worked for $3\frac{1}{2}$ hours, although the respondents did not file any document in support of their reply but looking to the entire facts and circumstances of the case we intend to dispose of this OA with certain directions.

8. Accordingly, OA is disposed of with the direction that the applicant may file fresh representation to the respondents within 15 days from the receipt of this order and respondents shall reconsider the representation in the light of averments made in the OA regarding duty hours, by passing a reasoned order, in accordance with law, within 2 months from the receipt of such representation.

9. There shall be no order as to costs.


(MEENAKSHI HOOJA)
Administrative Member


(JUSTICE K.C.JOSHI)
Judicial Member

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