

**CENTRAL ADMINISTRATIVE TRIBUNAL,**  
**ERNAKULAM BENCH**

**Original Application No. 428 of 2013**

Thursday, this the 31st day of March, 2016

**CORAM:**

**Hon'ble Mr. U. Sarathchandran, Judicial Member**

**Hon'ble Mr. E.K. Bharat Bhushan, Administrative Member**

1. P.K. Sreemathy, D/o. P.K. Kuttanpillai, aged 46 years, GDS BPM Thavinahal, Thalapuzha, Wayanad District - 670 644, residing at pullampoikayil, Kamptty, Thalapuzha-670 644.
2. K.V. Santhosh Kumar, S/o. Anadan Nair, aged 40 years, GDS BPM, Vallat, Thalapuzha - 670 644, Wayanad District - 670 644, residing at Lakshmi Sadanam, Vallat PO., Thalapuzha - 670 644.
3. M.A. Augustine, S/o. M.M. Augusthy, aged 60 years, GDS BPM, Porur, Wayanad PO, Thalapuzha, Pin - 670 644, residing at Munadamkkil House, Porur, Wayand PO, Thavinal - 670 644.
4. Chandrika K.V., D/o. C. Gopalan Nambair, aged 56 years, GDS BPM, Kampatti, Thalapuzha - 670 644, Wayanad residing at Kizhekke Veedu, Palakuly, Vimalanagar PO, Mananthavady - 670 644.
5. Philomina R., D/o. Rozario, 56 years, GDS BPM, Cherakara, Wayanad, Thalapuzha - 670 644, residing at Dizoosa House, Puthiyedom, Cherakkara, Wayanad PO.
6. Seethadevi O.S., D/o. Sivan Nair, aged 45 years, GDS BPM, Varayal, Thalapuzha, 670 644, residing at Chaithram, Kunnamanagalam, Wayanad PO.
7. K. Leela, D/o. Appu, aged 58 years, GDS BPM, Periya PO, residing at Kalikkaparampil House, Periya PO, Thalapuzha.

..... Applicants

**(By Advocate : Mr. M.R. Hariraj)**



**V e r s u s**

1. Union of India, represented by the Secretary to Government of India, Department of Posts, Ministry of Communication, New Delhi – 110 001.
  2. Chief Post Master General, Kerala Circle, Thiruvananthapuram – 695 033.
  3. Superintendent of Post Offices, Thalassery Division, Thalassery PO, Pin – 670 102.
- ..... **Respondents**

**(By Advocate : Mr. V.A. Shaji, ACGSC)**

This application having been heard on 26.02.2016, the Tribunal on

31-03-2016 delivered the following:

**ORDER**

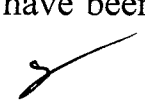
**Hon'ble Mr. U. Sarathchandran, Judicial Member –**

The applicants are Gramin Dak Sevak Branch Post Masters (GDS BPM). They were drawing the Time Related Continuity Allowance (TRCA) in the scale of Rs. 1600-2400/-. When Natarajamoorthy Committee report was implemented with effect from 1.1.2006 they were granted TRCA of Rs. 3660-75-5760/-. They are aggrieved by the act of the respondents reducing the TRCA scale from Rs. 3660-5760/- to Rs. 2745-4245/- by Annexure A1 order. Applicant No. 3 submitted Annexure A3 representation dated 16.6.2012 to respondent No. 3 regarding the reduction of TRCA from the month of May, 2012. Similar representations were sent by the other applicants also. Applicant No. 3 was informed vide Annexure A4 by the respondent No. 3 that reduction of the TRCA of GDS BPM is as per the instructions contained in the letter dated 16.12.2010 from the Directorate. According to the applicants they are entitled to protection of pay as per communication No. 14-16/2001/PAP(Pt), dated 11.10.2004 (Annexure R4).

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The Government of India had issued Annexure A7 order dated 15.10.2012 protecting TRCA of GDS BPMs at the existing slab for a period of one year and giving opportunity to them to improve the work load to the original level or higher. Applicants allege that Annexure A1 order has been issued without considering the directions in Annexure R4 and denying the protection of the stage of the applicants as envisaged in Annexure A7. Applicants state that the action of the respondents is unjust, arbitrary and illegal.

2. The grounds relied on by the applicants for challenging Annexure A1 are: Reduction of TRCA was made without giving them the protection of the stage of pay and without giving them notice. By issuing Annexure A1 respondents are attempting to further reduce the pay on the ground of reduction of work load and such reduction in pay is without complying the procedure mandated in Annexure A7. Applicants are holders of civil post and it is highly unfair to reduce the pay on the ground of reduction of work load. Earning increment based on the length of service is a well recognised right of employees and denying weightage to early period of work and putting the salary to minimum for no fault on the part of the employees are illegal, arbitrary and violative of the fundamental rights guaranteed under the Constitution of India. Reduction of work load was artificially created by the norms reducing the calculation of points and yet without any change in the working hours. Applicants have to keep the office open for not less than four hours. The TRCA is fixed based on working hours and the points based on the work load. Although norms for computing points have been revised




no revision has been made correspondingly in the working hours. Respondents are obtaining the same quantum of work although on a lower pay given to them than before.

3. Hence, the applicants pray for:

- “i. To quash Annexure A1,
- ii. To declare that applicants are entitled to have their pay protected in the scale of 3660-70-5760 with effect from 1.1.2012;
- iii. To direct respondents to protect the pay of the applicants with effect from 1.1.2012 with all consequential benefits;
- iv. To direct the respondents to refund the reduced amount of pay with effect from 1.1.2012;
- v. Grant such other reliefs as may be prayed for and the court may deem fit to grant, and
- vi. Grant the costs of this Original Application.”

4. Respondents filed reply statement rejecting the allegations made in the OA. According to them as per letter dated 1.4.2003 of the Postal Directorate review of work load of Branch Post Offices is to be carried out every three years and based on the revision, rationalization of the establishment of the GDS and revision of their allowances also will be done once in three years. The review of the branch offices were due in Thalassery Division for the year 2011-2012. After reviewing the work load of the branch offices where the applicants are presently working, the following work load was assessed and the TRCA of the applicants have also been changed as shown below:




| <i>Sl. No.</i> | <i>Applicant No.</i> | <i>Work load in points</i> | <i>Name of the BO</i> | <i>Present allowance</i> | <i>Allowance applicable after review</i> |
|----------------|----------------------|----------------------------|-----------------------|--------------------------|--|
| 1              | 1                    | 69.38                      | Thavinhal             | 3660-70-5760             | 2745-50-4245                             |
| 2              | 2                    | 69.63                      | Vallat                | 3660-70-5760             | 2745-50-4245                             |
| 3              | 3                    | 55.62                      | Porur                 | 3660-70-5760             | 2745-50-4245                             |
| 4              | 4                    | 54.67                      | Kampetti              | 3660-70-5760             | 2745-50-4245                             |
| 5              | 5                    | 61.13                      | Cherakkara            | 3660-70-5760             | 2745-50-4245                             |
| 6              | 6                    | 48.95                      | Varayal               | 3660-70-5760             | 2745-50-4245                             |
| 7              | 7                    | 45.65                      | Periya                | 3660-70-5760             | 2745-50-4245                             |

As per the implementation of the recommendations of the Natarajamoorthy Commission, BPMs are allowed TRCA for Rs. 2745-50-4245/- for the work load up to 75 points and the TRCA Rs. 3660-70-5760/- for work load up to 100 points. When applicant No. 1 was placed at TRCA of Rs. 3660-70-5760/- she had filed OA No. 677/2010 before this Tribunal which was allowed and Annexure A6 order protecting her TRCA was issued in compliance with the order of the Tribunal. In Annexure A6 order it is clearly stated that she will be placed in the scale of Rs. 2745-50-4245/- with effect from 31.1.2012 as the same is the justified TRCA for work load of 69.38 points assessed by the Triennial review.

5. Respondents state that unlike other Departments the appointment of the BPM is against the post with a specific work load and a specific allowance matching for work load. Presently the GDS are governed by the Department of Posts, GDS (Conduct & Engagement) Rules, 2011 [hereinafter referred to as the Rules]. Their engagement is on the terms and conditions which are significantly different from that of regular employees of the Postal Department. GDS are outside the regular civil services. The GDSs are paid TRCA as their remuneration. As per Rule 5-A of the

aforesaid Rules, GDS are entitled to payment of TRCA and other allowances as may be prescribed by the Government on the basis of the work load as per the standards of assessment decided by the Department from time to time. The TRCA is subject to upward and downward revision according to the changes in the work load. Assessment of work load in respect of BPMs is based on a point system fixed as per Annexure R3 instructions dated 9.10.2009. As per Annexure R4 instructions of the Department of Posts, if there is a drop in work load as a result of review the difference in allowance is protected as personal allowance to be absorbed against future entitlement which amount shall not exceed the maximum of the 1<sup>st</sup> TRCA. In the case of the applicants, they were drawing pay slightly higher than Rs. 4245/- which is the maximum of the 1<sup>st</sup> TRCA and therefore on reduction of work load they cannot be granted further protection as they were given a maximum of Rs. 4245/- as TRCA. The averment of the applicants that respondents reduced the TRCA without giving notice is not correct. The review was conducted as per instructions contained in Annexure R2 communication issued by respondent No. 3. The work load was correctly assessed as per the norms fixed in Annexure R5 communication dated 16.12.2010 of the Department of Posts. It is true that Annexure A7 allows protection of allowance of BPMs for one year in case of drop in work load. It is subject to the condition that protection of allowance would be given at the existing slab of TRCA of the BPM. When the BPMs are already drawing the maximum of the TRCA no protection can be given in the existing slab. According to the respondents Annexure A7 instructions are prospective in nature i.e. from 15.10.2012 and are not



applicable to the past cases. Respondents pray for rejecting the OA.

6. Heard Shri M.R. Hariraj learned counsel for the applicants and Shri V.A. Shaji, ACGSC appearing for the respondents at length. Perused the record.

7. The thrust of the arguments of Shri Hariraj learned counsel for the applicants is that the respondents have reduced the TRCA of the applicants without any notice and without giving protection of the existing TRCA slab in terms of Annexure R4 letter of the Department of Posts. According to him Annexure A1 communication of respondent No. 3 reducing the TRCA of the applicants was made without conducting a proper review of the work. He submitted that the drop in the work load of the Branch Post Offices cannot be ascribed to the inefficiency of the applicants. The situation of gradual diminishing of business in post offices on account of the growth of alternative modes of communication and the recent developments in the communication technology which have fast outdated the traditional functioning of post offices was brought to a sharp focus by Mr.M.R Hariraj. He pointed out that because of the revolutionary growth of mobile phone technology and electronic mail (e-mail), people who were the customers of Postal Departments for sending letters now resort to the new technology, downgrading the Post offices to an archaic institution with a consequential, natural reduction in the work load. He submitted that the Department is not justified in reducing the meager TRCA being paid to the GDS employees on account of the reduction in the work load in Post Offices for the reasons not


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attributable to the applicants.

8. Shri Hariraj addressed us elaborately on the history and development of the GDS system and emphasised that any further reduction in TRCA on the pretext of reduction in the work load for the Postal Department is unjustified, arbitrary and is violative of the fundamental rights of the GDS personnel like the applicants. He argued that in the instant case, the action of the respondents has been arbitrary when they reduced the TRCA vide Annexure A1 without any notice and without even conducting the review as envisaged in the aforesaid administrative instructions.

9. Shri Shaji, learned ACGSC, on the other hand relied on the administrative instructions in Annexures R1 to R5 and also on the provisions of the GDS (Conduct & Engagement) Rules, 2011. He submitted that before reducing the TRCA of the applicants the respondents had conducted a review of the workload of the branch post offices where the applicants are working, as a part of the triennial review envisaged in the administrative instructions. He pointed out that the TRCA payable to the applicants are in tune with Rule 5-A of GDS (Conduct & Engagement) Rules, 2011.

10. Shri Hariraj argued that GDS employees are holders of civil posts as has been held by the Apex Court in the *Superintendent of Post Offices & Ors. v. P.K. Rajamma* (1977) 3 SCC 94. He submitted that their emoluments cannot be altered to their disadvantage in view of the





protection under Rule 15 of Fundamental Rules. According to him Annexure R-4 is inconsistent with Rule 15 of Fundamental Rules. He brought to our attention that the applicants were in the 2<sup>nd</sup> TRCA, not in the 1<sup>st</sup> TRCA as contended by the respondents.

11. Shri Shaji on the other hand submitted that the GDS are not regular civil servants even though they have been held by the Apex Court as holders of civil post. He argued that therefore the service rules and Fundamental Rules are not applicable to them. According to him the GDSs are entitled to TRCA and other allowances prescribed by the government based on their workload. He submitted that depending on the workload there will be change in the TRCA payable to them.

12. We take note that GDS and their predecessors - the erstwhile Extra Departmental Postal Agents (EDAs) of the Post & Telegraph Department have been functioning under a separate system and under separate rules, quite distinct and different from the rules governing civil servants. The civil services of our country are governed by chapter XIV of the Constitution of India. Recruitment and conditions of service of civil servants are regulated by the rules made by the President or by the Governor in the case of a State, in terms of the proviso to Article 309 of the Constitution of India, whereas the GDS Rules - though styled as a subordinate legislation, is not a rule made by the President/Governor under the proviso to Article 309 of the Constitution of India. We feel that these distinct and special features of GDS make the GDS different and distinct from the civil servants of the

Union who are dealt with in Chapter I, Part XIV of the Constitution of India, for historical reasons the erstwhile Extra Departmental Postal Agents of P&T Department and the present the GDSs are deep rooted institutions in the *dak* administration of our country. The EDA rules and the new GDS rules have therefore attained the status of statutory rules by the long usage and for historical reasons. Therefore, we are of the view that the characteristics of regular civil servants cannot be attributed to the GDSs in relation to their functioning, nature of work and emoluments.

13. The only question to be considered in this OA is whether Annexure A1 order reducing the TRCA was issued in an unjust and arbitrary manner, violating the rights of the applicants or not? Applicants allege arbitrariness on the part of the respondents when they reduced TRCA. Respondents on the other hand state that they have reduced the TRCA of the applicants as per the administrative instructions in Annexure R5 after conducting the triennial review. Rule 5-A of GDS (Conduct & Engagement) Rules, 2011 specifically state:

“5-A The Gramin Dak Sevaks shall be entitled to payment of Time Related Continuity Allowance and other allowances as may be prescribed by the Government on the basis of workload as per the standards of assessment decided by the Department from time to time.”

14. In the above circumstances we are of the view that the respondents are justified in conducting the periodical assessment of the work load of the branch post offices. Annexure R5 is the revised norms for assessment of work load of Branch Post Masters. The norms prescribed in Annexure R5 for assessment of the work load by point system are extracted below:

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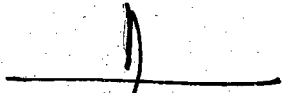
| <i>Sl. No</i> | <i>Item of work</i>  | <i>Points</i>        | <i>Standard Prescribed</i>                                     |
|---------------|--|----------------------|--|
| 1.            | Handling of unregistered articles                              | 1 point of work load | For every 25 unregistered articles handled in a day            |
| 2.            | Handling of Registered articles .                              | 1 point of work load | For every 22 registered articles handled in a month            |
| 3.            | Handling of Money orders                                       | 1 point of work load | Fore very 15 Money orders handled in a month                   |
| 4.            | Sale of Postage stamps   | 1 point of work load | For every Rs. 900 worth of stamps sold in a month              |
| 5.            | Handling of cash (*)   | 1 point of work load | For every Rs. 20000 cash handled in a month.                   |
| 6.            | Savings Bank/NSC transactions.                                 | 1 point of work load | For every 10 transactions in a month                           |
| 7.            | Rural Postal Life Insurance transactions                       | 1 point of work load | For every 10 transactions in a month                           |
| 8.            | Collection of Telephone or any other bills                     | 1 point of work load | For every 20 bills collected in a month                        |
| 9.            | Disbursement of Old age pensions through Money orders          | 1 point of work load | For every 15 old age pension Money orders disbursed in a month |
| 10.           | Disbursement of Old age pensions through Savings Bank accounts | 1 point of work load | For every 10 old age pension through Savings Bank in a month   |
| 11.           | Accounts work and receipt and dispatch of mails in a month     |                      | Fixed 14 points per month.                                     |

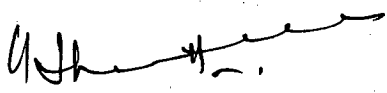
15. From the above it can be seen that the respondents have reduced the TRCA of the applicants as per the rules and based on set norms. If the administrative action is in accordance with the rules and norms it cannot be said to be arbitrary. Hence it appears to us that Annexure A1 is not vitiated by arbitrary exercise of power.

16. The next allegation of the applicants is that no notice was given to them before reducing their TRCA. As pointed out above the periodical review as per the administrative instructions is a norm followed by the Postal Department for assessing the work work load of GDS employees.

Hence, it cannot be said that when each and every assessment is made the employees should be given prior notice. In our view, no notice is necessary for conducting the triennial review of the work load of the branch post offices, which appears to have become a regular feature. The rate of TRCA based on the points also has been set in the administrative instructions. The respondents have pointed out that the applicants have been drawing the maximum TRCA based on the workload and hence there is no need for protection of their existing pay. We find that there is nothing illegal in the aforesaid stand of the respondents.

17. Taking stock of the facts and circumstances of the case and in the light of the clear administrative instructions, we find no merit in the case put forward by the applicants. Accordingly we dismiss this OA. Parties shall suffer their own costs.

  
(E.K. BHARAT BHUSHAN)  
ADMINISTRATIVE MEMBER

  
(U. SARATHCHANDRAN)  
JUDICIAL MEMBER

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