

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

O.A. NO. 511/2004

FRIDAY, THIS THE 31st DAY OF MARCH, 2006

C O R A M

HON'BLE MRS. SATHI NAIR, VICE CHAIRMAN

- 1 T.V. Velayudhan S/o late Villy
Sub Postmaster,
Angamally Post Office
residing at Thengumthari House
Karippadam Road, Angamaly P.O.
- 2 Usha P D/o Sri V. Damodaran Nambiar
Postal Assistant
Angamaly Post Office
residing at Ambili, Moozhikulam
Kurumasserry PO
- 3 Valsala V.N. D/o late V.S. Narayanan Nair
Postal Assistant
Angamaly Post Officer
residing at Ambattu House, Vattalpparambu PO
Kurumasserhy
- 4 Sofy C.G. D/o Sri George C.A.
Postal Assistant, Angamaly Post Office
residing at Chiriyankandath House
Vengoor, Kidangoor PO
Angamaly.
- 5 T.J. Clara D/o Sri T.M. Joseph
Postal Assistant, Angamaly South Post Office
residing at Thykadan House, Kaippattor
Kalady P.O.
- 6 A.P. Lusha D/o Sri Pengan
Group-D Angamaly Post Office
residing at Cheriyamparambil House
Kurumasserry PO
Angamaly.
- 7 K.I. Thankamma D/o the late K.C. Ishnan
Postman-Vending Stamps, Angamaly Post Office
residing at Jaya Nivas, Allappara PO
Perumbavoor

8 M.D. Thomas S/o late M.J. Devassy
Postman, Angamaly Post Office
residing at Moonjeli House,
Mekkad PO, Angamaly.

9 Raman V.K. S/o late Kuttan
Poastman, Angamaly Post Office
residing at Vilangappurath House,
Majapra PO, Angamaly.

10 Joseph A.V. S/o late Kunjuvareed
Postman, Angamaly Post Office
residing at Areekkal House,
Angamaly PO

11 C. Shanthakumari D/o Shri K. Narayanan Nair
Postman, Angamaly Post Office
residing at Mangalath House
Parakkadavu PO, Kurumasserry.

12 Shobana Kumari K.T. D/o late N. Kunjan Kurup
Group-D, Angamaly Post Office
residing Kayath House, Poikkattusserry
Chengamanad PO

13 N.K. Leela D/o the late Govindan Nair
Postman, Angamaly Post Office
residing at Kalangara House
Meloor PO, Chalakkudy.

14 Adhersh A S/o late Ayyappan
Group-D, Angamaly South Post Office
residing at Adhersh Vihar
Kidangoor PO, Angamaly.

15 Baby P.J. D/o the late M. Jacob
Sub Postmaster, Angamaly South Post Office
residing at Paravattil House, Mekkad PO
Angamaly.

16 A.K. Parameswaran S/o the late A.S. Krishnan
Postman, Angamaly South Pot Office,
residing at Ambattuparambil House,
Puliyannam PO, Angamaly.

17 V.V. Ravi S/o the late Velayudhan K.S.
Postal Assistant, Aluva Head Post Officer residing at
Vandanam, South Aduvasserry PO
Chengamanad.

18 K.A. Viswanathan S/o late K.A. Ayyappan
Sub Postmaster, Chengamanad
residing at Kulangaredath House
Ashokapuram, Aluva.

19 Gopalakrishnan M.A. S/o Sri M.P. Ayyappan Nair
Postman, Chengamanad
residingat Mooleth House
Neyathode PO,Angamaly.

20 A.K. Gopi S/o late A.A. Kuttappan
Sub Postmaster, , Aathkani Post Office
residing at Arackal House, Kariyad Mekkad PO
Angamaly.

21 P.J. Thomas S/o Sri P.T. Joseph
Postman, Athani Post Officer
residing at PadayattilHouse,I Paduapuram PO
Karukutty, Angamaly.

22 P.T. Johnson S/o Sri P.M. Thomas
Sub Postmster, Kochi International
Airlport Post Officer residing at Pudussery House, Kuttippuzha
Kunnukara PO
Chengamanad

23 A.T. Gopinathan Nair S/o late C.K. Raman Nair
Group-D,Kochi International Airport Post Officer
residing at Chenganattu House,
Manjapra PO
Angamalhy.

24 M.K. Vasu S/oA. Kalulkurumban
Postal Assistant, Chengamanad Post Office
residing at Mailikkara House
Desom PO, Aluva.

25 Shally George D/o Sri Varghese Chacko
Postal Assistant, Angamaly Post Office
Kurisingal House, Karukutty PO
Angamaly.

26 Bindu Lakshmi V. D/o Sri V.N. Radhakrishnan Nair
Postal Assistant, Angamaly
residing at Remasadananam
Nayathode PO
Angamaly.

27 P.Liji D/o Sri K.A. Poulose
Postal Assistant, Angamaly
residing at Koottungal House,
South Bazaar, Kanjoor

By Advocate Mr. O.V. Radhakrishnan

Vs

1 Director General (Posts)
Dak Bhavan
New Delhi.

2 Chief Postmaster General, Kerala Circle
Thiruvananthapuram.

3 Postmaster General, Central Region
Kochi.

4 Senior Superintendent of Post Offices
Aluva Division, Aluva.

5 Union of India represented by
its Secretary, Ministry of Finance
New Delhi.

Respondents

By Advocate Mrs. K. Girija, ACGSC

ORDER

HON'BLE MRS. SATHI NAIR, VICE CHAIRMAN

The applicants are employees under the Department of Posts and are working in Angamaly, Angamaly South, Athani, Chengamanad and Kochi International Airport Post Offices in Aluva Postal Division. The above places/towns form part of Kochi Urban Agglomeration and Cochin Urban Agglomeration is included in the list of Urban Agglomerations of 2001 Census. The applicants are aggrieved by the inaction of the respondents in the payment of House Rent Allowance and City Compensatory Allowance at the rates applicable to Cochin Urban Agglomeration which is classified as "B-1" city among the cities of Kerala. The applicants submitted that by a general representation dated 1.4.2003 the All India Postal Employees Union Group-C Kerala Circle had also taken up the matter with the Postal Services Board, New Delhi. It is also mentioned that the Southern Railway has granted higher rate of HRA and CCA to their staff working at the above places and the BSNL has also accorded similar benefits to their staff.

2 The respondents in the initial reply statement submitted that the

classification of cities/towns for the purpose of HRA/CCA on the basis of 2001 census has not been finalised so far by the Government and the case is pending with the Ministry of Finance. In the additional reply statement they enclosed Annexure R-2 orders of the Government of India, Ministry of Finance re-classifying the cities and towns on the basis of 2001 Census for grant of HRA and CCA to Central Government employees. Against this background it was averred that the applicants would be entitled to higher rates w.e.f. 1.4.2004, the date on which Annexure R-2 orders takes effect.

3 The applicants in their rejoinder submitted that on the basis of Census 2001 the Government of India issued letter No. T-3617/98 dated 28.8.2002 declaring Angamaly, Angamaly South, Athani and Chengamanad as places forming part of Kochi Agglomeration. Therefore the applicants who were working in the above mentioned places as on 18.8.2002 and who came to be posted to the above mentioned places subsequently became entitled to higher rates of CCA and HRA as allowed in Annexure A2 OM dated 3.10.1997.

4 I have heard the learned counsel on both sides. Now that the reclassification orders have been issued, the only question arising for consideration and decision is whether the applicants have become eligible for the above allowances from the date of 1.4.2004 as contained in the letter dated 18.11.2004 or from the dates from which they are working in accordance with the earlier OM dated 3.10.1997. It is the contention of the applicants that in the earlier orders at Annexure A-12 which was made effective from 1.8.1997, the Kochi Urban Agglomeration was classified as B-1 city for the purpose of CCA and by Annexure A-12(a) as B-2 city for payment of HRA and therefore it follows that on and from the date on

which the places of Angamaly, Angamaly South, Athani and Chengamanad are made constituents of Cochin Agglomeration, those cities automatically became classified as B-1 city for the purpose of CCA and as B-2 for the purpose of HRA on and from 28.8.2002. In Annexures R2 and R-3 Cochin Urban Agglomeration has again been classified as B-1 and B-2 and it has not brought out any change in the classification as far as Kochi (UA) is concerned. Therefore the fact that Annexure R-2 orders are to take effect on 1.4.2004 is of no consequence and the contention of the respondents in this regard is clearly unsustainable. The respondents maintain that the applicants cannot seek the benefit of Census Report of 2001 including these places in Cochin Agglomeration and the OM issued by the Ministry of Finance at Annexure R-2 dated 18.11.2004 specifically deals with the grant of higher HRA and CCA on reclassification of cities /towns on the basis of 2001 Census and the benefit of higher HRA and CCA can be granted only w.e.f. a date mentioned therein. It is for the Government to decide or revise classification of cities and also to decide the effective date on which the orders accepting reclassification is to take effect. Hence the applicants are not entitled to any higher rates from an earlier date.

5 I have considered the arguments advanced by the learned counsel and perused the records produced before me. Both the HRA and CCA are payable with reference to place of duty consequent upon the decision taken by the Government on the recommendation of the Fifth CPC. The CCA and HRA are admissible at the rates fixed from 1st August, 1997 as per Ministry of Finance OM dated 3rd October, 1997 (Annexure A-2). The classification of cities and towns and the rates fixed for each have been prescribed therein. In the list of classified cities for CCA, Kochi (UA) is classified as B-1 city and for HRA as B-2. The places included in the Kochi

Agglomeration or any other Agglomeration are not specified in this order. Evidently the geographical boundaries of the Agglomeration are defined elsewhere on the basis of Census/^{data} later. On the basis of the 2001 Census, now the Ministry of Finance have issued R-2 order in supersession of the earlier order re-classifying cities. Kochi (Urban Agglomeration) continues to be classified as B-1 and B2 in the revised order. Therefore this re-classification of cities in the order has not brought about any change in the classification as far as Kochi (UA) is concerned. What has changed is the geographical boundaries of the Agglomeration which has been enlarged by inclusion of additional places as is evident from R-4 letter issued by the office of the Registrar General of India filed by the respondents themselves stating that Angamaly municipality area and Chengamanad town are constituent units of Cochin Agglomeration. The Ministry of Finance is concerned with the classification of the towns for the purpose of payment of these allowances and fixation of the rates. The geographical boundaries of the city limits and the Agglomeration are decided by the State and Central Governments and the Urban Development Authorities on the basis of the Census report. It is stated that the Government have issued letter dated 22.8.2002 declaring that these places are forming part of Cochin Agglomeration though the copy of the letter has not been produced by either the applicants or the respondents. We see merit in the argument of the applicants that the reclassification of cities and towns has not made any change as far as Kochi (UA) is concerned, if there was any such change in the classification, the contention of the respondents that these orders are to take effect from 1.4.2004 would have some significance as there would be a change in the rates admissible. This argument would have been relevant if there was a change in the classification as such. What has changed is only the physical spread of the Agglomeration and these

additional places would thus become eligible to be considered for payment of HRA/CCA at the rates approved for Kochi (UA). I am therefore of the view that the applicants working in these places which have got included in the limits of Cochin Agglomeration as a result of the 2001 Census have become eligible for payment of HRA and CCA at the rates applicable to the classification of Kochi (UA).

6 Since the letter dated 28.8.2002 has not been produced before me I am not in a position to specifically direct the payment of allowance from that date as prayed for by applicants in the O.A. In any case their request for payment of allowances at the rates applicable to classified cities from the dates they have been working is not tenable. The orders issued by the Southern Railway at Annexure A-10 which makes a reference to the Government letter dated 28.8.2002 is not specific whether the allowances are payable from that date or the date of issue of Annexure A-10. Similarly, the order of BSNL granting the same benefit is also silent on the date from which it is effective. The stand of the respondents as seen from Annexures R-3 and the argument advanced by the learned counsel is that the Department is of the view that this benefit will be only given from the date of issue of the Ministry of Finance OM directing that these rates are applicable from 1.4.2004. As mentioned earlier the stand of the respondents would have been sustainable if there had been any change in the classification of the cities thereby resulting in change of rates. The respondents are not able to produce any instructions to the effect that changes in geographical boundaries in the Agglomeration by the approval of the next Census report would have to wait for approval of Ministry of Finance for the purpose of payment of HRA and CCA.

7 In the absence of any such instructions, I am of the view that the prayer of the applicants has merit and that the applicants are entitled to the reliefs. The rate of HRA and CCA as laid down in Annexure A-2 are applicable to the applicants from the dates the Angamaly, Angamaly South, Athani, Chengamanad and Kochi International Airport posts office areas have become a constituent unit of Kochi (UA) as per 2001 Census. Accordingly I direct the respondents to pay the arrears of HRA and CCA payable to them from that date of their entitlement within a period of three months from the date of receipt of this order. There is no order regarding payment of interest. The OA is allowed as above. No costs.

Dated 31.3.2006.

Sathi.Nair
SATHI NAIR
VICE CHAIRMAN

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