

**Central Administrative Tribunal
Ernakulam Bench**

OA No.520/2012

Wednesday, this the 4th day of September, 2013.

CORAM

Hon'ble Dr.K.B.S.Rajan, Member (Judicial)

Hon'ble Mr.K.George Joseph, Member (Administrative)

1. Smt.Sudha Devi T.S., age 53 years
W/o Vijayan
Working as Postal Assistant (BCR)
Stamp Depot, Kadavanthara
Kochi-682 020.
Residing at Onapathikkal House
Meempara P.O., Puthencruz
Kochi-682 308.
2. Smt.Annamma Abraham, age 50 years
W/o Abraham
Working as Postal Assistant (BCR)
Kochi Foreign Post.
Residing at 30/1848 D, Poothenappally Road,
Vyttila P.O.
Kochi-682019

Applicants

(By Advocate: Mr.P.C.Sebastian)

Versus

1. The Sr. Supdt of Post Offices
Ernakulam Division
Kochi-682 011.
2. The Director General
Department of Posts
New Delhi-110 011.
3. Union of India represented by
the Secretary to Govt of India
Ministry of Communications
Department of Posts
New Delhi-110 011

Respondents

(By Advocate: Mr.Millu Dandapani, ACGSC)

This application having been heard on 29th August, 2013, the Tribunal
on 31.09.13 delivered the following order:-

ORDER

Hon'ble Dr.K.B.S.Rajan, Member (J)

The matter is short and simple. The applicant No. 1 had joined the service on 02-12-1981 while the second applicant, on 03-12-1981. According to the applicants, they had completed 26 years of service prior to 01-01-2008, whereas they have been afforded the BCR upgradation only w.e.f. 01-07-2008. Under the BCR Scheme, one is entitled to the second financial upgradation on completion of 26 years and since she completed 26 years only on 03-01-2008, she was considered for the said financial upgradation on 01-07-2008. However, the case of the applicant is that under the rules, the period of in service training is also to be taken into account in which event, she would be entitled to the BCR financial upgradation w.e.f. 01-01-2008 itself. Hence this OA seeking the following reliefs:-

- a) To call for the records leading to the issue of Annexure A-7 and quash the same.*
- b) To declare that applicants are entitled to be granted the 2nd financial upgradation under the Biennial Cadre Review Scheme with effect from the date of completion of 26 years of satisfactory service and that the action of the respondents in postponing the same to 01.07.2008 is illegal.*
- c) To direct the respondents to grant the 2nd financial upgradation to the applicants with effect from the date on which they completed 26 years of satisfactory service with all consequential financial benefits and pay them the arrears of pay and other consequential benefits due to them in this regard within a time frame as deemed fit and proper to this Hon'ble Tribunal.*
- d) To grant such other relief as prayed for or which this Hon'ble Tribunal may deem fit and proper to grant in the facts and circumstances of the case.*
- e) To award costs in favour of the applicant.*

2. Respondents have contested the O.A. According to them, while working out the service of 26 years of service, the period of non qualifying service has to be discounted, and when doing so, it is found that the applicants did not complete 26 years of service as on 01-01-2008 and hence, they have been rightly considered and afforded the BCR financial upgradation w.e.f. 01-07-2008.

3. In their rejoinder, the applicants have contended that while working out the period of 26 years of service, the period of in service training shall also be included, and in that event, the applicants would have completed 26 years of service as on 01-01-2008 itself.

4. Counsel for the applicants submitted that even after discounting the non qualifying period of 31 days and 37 days respectively, the applicants would have completed 26 years of service if the period of in-service training is also included.

5. Arguments were heard and documents perused; The relevant terms of the BCR Scheme from the Circular dated 16-10-1990 inter alia read as under:-

“(iii) x x x x x

(iv) At the time of review the number of officials who have completed/would be completing 26 years of service in the basic cadres including time spent in higher scale (OTBP) will be ascertained. The persons will be screened by the duly constituted Review Committee to assess the performance and suitability for advancement.

(v) * * *

(vi) * * *

(vii) * * *

(viii) * * *

(ix) The first biennial cadre review for eligible cadres/officials may be conducted immediately covering the period up to 30-6-1992 to ascertain the eligible officials who have completed/will be completing 26 years of service or more as on the crucial dates, namely, the dates of the review 1-1-1991, 1-7-1991 and 1-1-1992. The number of posts needed to provide for the promotion of the eligible persons will be determined and will be sanctioned/activated in four instalments—the first immediately, the second on 1-9-1991, the third on 1-7-1991 and the fourth on 1-1-1992. With these posts, it should be possible to provide for promotion of those employees who have completed 26 years of service or more on the above crucial dates, subject to their

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otherwise being found fit. The criterion for promotion will be seniority, subject to selection.

Order implementing the first instalment of cadre review should be issued before 30-11-1990.

In the second cadre review, which will cover the period from 1-7-1992 to 30-6-1994, which should be completed before 1-7-1992, the required number of posts needed to be released in half-yearly instalments on 1-7-1992, 1-1-1993, 1-7-1993 and 1-1-1994 to cater for promotion of those who would have completed 26 years of service on the four crucial dates, will be ascertained and sanctions released in appropriate instalments so that the promotions of eligible personnel could be notified on due dates.... ”

6. The above would show that the crucial date both for ascertaining the service of 26 years as also for financial upgradation is only twice a year. Thus, notwithstanding the fact that a person would have at his credit more than 26 years of service as on first January of any year, the financial upgradation would be available only with effect from first January. For the number of posts released are only in two instalments i.e. first January, and first July. Thus, the decision of the respondents cannot be faulted with.

7. However, what is to be seen is whether the contention of the applicants as contained in the rejoinder that the period of in-service training would also be reckoned with to work out the period of 26 years of service. The counsel for the applicants relies upon the decision of this Tribunal in OA No. 1008 of 2011. In that case also, the contention of the applicant was that the period of training as postal assistant also counts for service. There has been no specific finding in this regard, for, there was a concession by the respondents themselves, as could be seen from para 4 of the said order dated 27-01-2012, which reads as under:-

“4. It is the contention of the applicant that counting the period of training as Postal Assistant also as service, he is entitled to the benefit of BCR with effect from 01.01.2008. Further, there is a promise that certain period of dies non to be treated as eligible leave. If that be so, he has the requisite service of 26 years prior to 01.01.2008. The applicant therefore seeks for a declaration that he is entitled to be granted the benefit of promotion / fitment under the BCR Scheme with effect from 01.01.2008 and seeks to quash Annexure A-1. In the counsel statement filed, in para 3 it is stated as follows:-

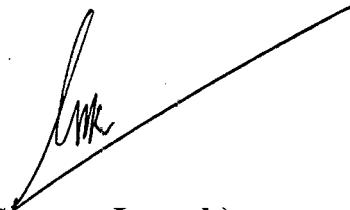
“It is also submitted that the Hon'ble Tribunal disposed similar issues by granting the benefits sought by the applicants in OA 430/09 filed by Sri.K.Sasidharan Nair, OA

792/10 filed by Sri. T. P. Sukumar Pillai and also in OA 1051/10 filed by Sri. K. J. Jose. The respondents respectfully submits that the applicants in the present OA also seek the similar reliefs and the respondents have decided to grant the benefits of BCR to the applicant with effect from the date on which he completed 26 years of qualifying service. Hence it is submitted since the prayer sought by the applicant stand redressed, the Hon'ble Tribunal may be pleased to close the OA as infructuous ."

5. In view of the specific admission that similar cases have been disposed of in favour of the applicants referred to and the Department itself having decided to extend the benefits to the applicant herein also as the applicant has completed 26 years of qualifying service, I direct the 2nd respondent to calculate and pay the benefit as per the scheme in vogue in accordance with the admission made in para 3 above as expeditiously as possible, within a period of two months from the date of receipt of a copy of this order."

8. Keeping in view the above, this OA is disposed of with a direction to the respondents that if the training period in other cases is also reckoned in working out the period of service of 26 years, the same treatment be also afforded to the applicants herein and their upgradation under BCR scheme be advanced accordingly and the consequential benefits of arrears of salary be paid to them.

9. This order be complied with, within a period of four months from the date of communication of this order. No costs.


(K. George Joseph)
Member (A)


(Dr. K. B. S. Rajan)
Member (J)

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