

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

OA No.578/2003

Dated Wednesday this the 15th day of October, 2003.

C O R A M

HON'BLE MR.A.V.HARIDASAN, VICE CHAIRMAN
HON'BLE MR.T.N.T.NAYAR, ADMINISTRATIVE MEMBER

P.Prabhakaran Nair
S/o Sri K.Gopalan Nair
Postal Assistant, TBOP (SBCO)
Calicut Head Post Office
Kozhikode
Residing at 'Karthika', Pandheerankavu
Kozhikode - 673 019.

Applicant

(By advocate Mr.O.V.Radhakrishnan)

Versus

1. Postmaster General
Northern Region
Calicut-11.
2. Chief Postmaster General, Kerala Circle
Thiruvananthapuram.
3. Director General of Posts
Dak Bhavan, New Delhi.
4. Union of India represented its
Secretary
Ministry of Communications
New Delhi.

Respondents.

(By advocate Mr.K.Kesavankutty, ACGSC)

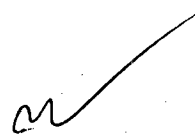
The application having been heard on 15th October, 2003,
the Tribunal on the same day delivered the following:

O R D E R

HON'BLE MR.A.V.HARIDASAN, VICE CHAIRMAN

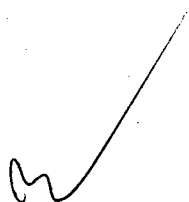
The applicant commenced service as Lower Division Clerk in the Savings Bank Control Organization (SBCO for short) in the Department of Posts in the pay scale of Rs.950-1500. On passing the requisite examination in the year 1982, he was promoted as Upper Division Clerk with effect from 3.4.1983 and his pay was fixed at the stage of Rs.1410 in the pay scale of Rs.1200-2040. The scheme of promotion under TBOP (Time Bound One Promotion) was extended to the SBCO by Annexure A-1 order dated 26.7.1991, which provided that the officials who did not opt for their old scales

would be brought into the grade of Postal Assistant (SBCO) and their pay would be fixed under FR 22 (1)(a)(2) and that on their completion of 16 years of total service including service as LDC/UDC, their pay would be fixed in the next higher grade and fixed under FR 22(1)(a)(1). The applicant opted for the TBOP Scheme and his pay was fixed as Postal Assistant (SBCO) with effect from 1.8.1991. Thereafter, on completion of 16 years of total service, the applicant was granted higher pay scale of Rs.1400-2300 with effect from 3.3.1993 and his pay was fixed under FR 22(1)(a)(1) in accordance with the provision of the A-1 Scheme. Subsequently, pursuant to an order dated 8.2.1996 of the Director General (Posts) [Annexure R1(b)] wherein it was stipulated that if juniors had been granted TBOP/BCR earlier, the date of placement of seniors in the higher scale should be preponed to the date of award of the higher placement of immediate junior, the date of TBOP placement of the applicant was preponed by A-3 order dated 12.7.1996 with effect from 3.3.1993 to 1.8.1991. As a result, the applicant's pay was reduced in as much as his pay under the TBOP was fixed directly from the pay of UDC. The applicant represented against the action on 12.8.1996 (Annexure A-4) and followed it up with another one (Annexure A-5). By Annexure A-6 he was informed that the matter was under consideration. Ultimately by A-7 order dated 21.7.1999 the applicant was informed that fixation of pay done in his case from UDC pay to LSG was in order. Aggrieved, the applicant submitted an appeal (Annexure A8) addressed to the Director General of Posts, which was not forwarded. While the matter stood so, the applicant found that in the case of two LSG Postal Assistants in the office of the PMG, Kozhikode, an identical issue was considered by the Tribunal in OA No.603/1999 and their claim that



the fixation of their pay directly from the pay of UDCs to that of LSG Postal Assistants was illegal was upheld by the Tribunal. The applicant submitted A-10 representation dated 26.3.2003. The claim was rejected by the first respondent on the ground that as the applicant was not a party to the OA No.603/1999, he was not entitled to the same benefit. Alleging that there is no justification in taking a totally different yardstick in the case of the applicant who was similarly situated as the applicant in OA No.603/1999 especially when the O.P. filed against that order had been withdrawn by the respondents, the applicant has filed this application seeking to set aside the impugned order A-13, for a declaration that the applicant is entitled to get his pay fixed in the scale of pay of Rs.1400-2300 on his promotion under TBOP Scheme with effect 1.8.1991 taking into account his pay in the scale of Rs.975-1660 applicable to Postal Assistants [SBCO] under FR 22(1)(a)(1) and for a direction to the respondents to fix his pay in the scale of Rs.975-1660 on replacement of the applicant as Postal Assistant (SBCO) if not already done and to fix his pay in the scale Rs.1400-2300 from the stage of pay in the scale of Rs.975-1660 to the scale of pay of 1400-2300 on his promotion under the TBOP Scheme with effect from 1.8.1991 under FR 22(1)(a)(1) on the basis of his option of the date of next increment with all consequential benefits including arrears of pay and allowances.

2. The respondents resist the claim of the applicant. They contend that since the applicant had no occasion to draw his pay in the scale of Postal Assistant as he had been placed in the TBOP with effect from 1.8.1991 itself by pre-poning his promotion, the applicant is not entitled to claim the relief.




3. We have gone through the pleadings and have heard Shri O.V.Radhakrishnan, the learned counsel of the applicant and Shri K.Kesavankutty, the learned ACGSC for the respondents. An exactly identical issue although relating to the staff of the administrative offices was considered by this Bench of the Tribunal in OA No.603/1999. Adverting to the contentions raised on either side, it was observed in paragraphs 4 & 5 of the order of the Tribunal, as follows:

"4. On a careful consideration of the relevant provisions under the Scheme A-1 extending the TBOP to the Group 'C' staff of the administrative offices, the order by which the applicants 1 & 2 were brought into C.O. cadre (A-4), the pay fixation orders A-5, A-6, A-8 and A-9 and all the other relevant materials, we find that there is absolutely no justification for re-fixation of the applicants' pay on preponing the date of their promotion under TBOP scheme to bring them on par with their juniors in terms of the letter Annexure R-1. The letter R-1 does not provide that the pay fixed in the case of the seniors who had been granted TBOP placement only later should be reopened and refixed to their detriment. In the guise of granting a benefit of ante dated placement in the higher scale, the applicants should not be put to a financial loss. The applicants' pay in the scale of Rs.975-1660 was fixed on their cadre change in accordance with the provisions contained in paragraph 3.4 of A-1 Scheme under FR-22(1)(a)(2). Their pay on placement in the TBOP scheme was fixed under FR 22(1)(a)(1) as per the provisions contained in paragraph 3.6 of Annexure A-1 Scheme. The fixation of pay as per A-5, A-6 as also A-8 and A-9 was made correctly and in accordance with the provisions of the Scheme in A-1. The Internal Finance Audit has no authority to change the scheme and to say that the fixation made in accordance with the scheme should be changed just for the reason that the applicants' date of placement under the TBOP scheme had been ante dated just to rectify anomaly of juniors being placed in the higher scale in an earlier date than the seniors.

5. In the light of what is stated we find no justification in the action taken by the respondents. Original Application is allowed and the impugned orders A-15, A-16 and A-17 are set aside. No costs."

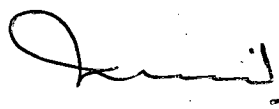
4. The issue involved in this case is exactly identical and we do not find any reason to take a different view as there is virtually no difference between the nature of claim of the



applicants in OA No.603/1999 and the applicant in this case. The only difference is that while the applicant in this case belongs to SBCO, the applicants in OA No.603/1999 belonged to the administrative offices of the Postal Department. The contention of the respondents that on account of the ante-dating of the placement in TBOP, the applicant has had no occasion to draw pay in the pay scale of the Postal Assistant and therefore he is not entitled to pay fixation is also not tenable in view of the decision contained in A-12 order wherein it has been decided that such officials in Administrative Offices whose pay on the date of introduction of TBOP/BCR Scheme on 26.6.93 was directly fixed in the BCR scale of pay, may be allowed pay fixation in TBOP scale first and then in BCR scale of pay on the same day. This principle which is good for the staff in the administrative offices can hold good in the case of SBCO also as there is practically no difference between them.

5. In the light of what is stated above, we reject the contentions of the respondents, set aside the impugned order A-13, direct the respondents to give the applicant the benefit of fixation in the scale of Rs.975-1660 according to the provisions contained in A-1 Scheme and then fix the pay of the applicant in the scale of Rs.1400-2300 giving the benefit of FR 22(1)(a)(1). Orders as directed shall be issued and the monetary benefits flowing therefrom made available to the applicant within a period of two months from the date of receipt of a copy of this order. No order as to costs.

Dated 15th October, 2003.



T.N.T.NAYAR
ADMINISTRATIVE MEMBER



A.V.HARIDASAN
VICE CHAIRMAN