

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

OA No.584/2011

Monday, this the 25th day of February 2013.

CORAM

HON'BLE Dr.K.B.S.RAJAN, JUDICIAL MEMBER
HON'BLE Ms. K.NOORJEHAN, ADMINISTRATIVE MEMBER

P.C.Alexander, age 54 years
S/o Chacko,
Gramin Dak Sevak Branch Postmaster
Kozhimala P.O.
Ayyappankovil-685 507.

Applicant

[By advocate: Mr.P.C.Sebastian]

Versus

1. The Supdt. Of Post Offices
Idukki Division
Thodupuzha-685 584.
2. The Chief Postmaster General
Kerala Circle
Thiruvananthapuram-695033
3. The Union of India represented by
Secretary to Govt. of India
Ministry of Communications
Department of Posts
New Delhi-110 001.

Respondents

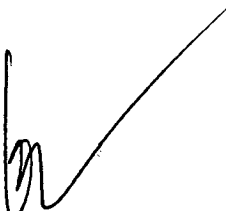
[By advocate: Mr.Rajesh for Mr.Sunil Jacob Jose, SCGSC]

This Original Application having heard on 25th February 2013, this Tribunal on the same day delivered the following:

ORDER

HON'BLE DR.K.B.S.RAJAN, JUDICIAL MEMBER

The admitted facts of this case are as hereinafter. The applicant had



been functioning as Gramin Dak Sevak since March, 1998 was working as GDS MD Parathode Idukki. The said office was upgraded as Departmental Sub Office since August, 2009 and the applicant thus, applied for his transfer in October, 2009, as GDS BPM, Kozhimala, the then instituted post Office. He had renewed his request for transfer again, on medical grounds, in January, 2010 and the authorities had acceded to his request and he was posted as GDS BPM, Kozhimala, vide Annexure A-1. This post carries a pay scale of 2745 – 4245 on the basis of the actual workload. The applicant was earlier in receipt of Rs 4820/- as TRCA at his earlier place of posting and on his assumption of duties as GDSBPM, Kozhimala, his TRCA was fixed at the minimum in the TRCA Scale, i.e. Rs 2745/-. The applicant has challenged the same claiming the following reliefs:-

1. *To declare that the action of the respondents in reducing applicant's basic TRCA from Rs.4820/- to Rs.2475 consequent on his transfer from the post of GDS MD Parathode P.O. to the post of GS BPM Kozhimala P.O. is illegal and that applicant is entitled to have his TRCA on transfer protected in terms of Dept.of Posts letter No.14-16/PAP (Pt) dated 11.10.2004.*
2. *To direct the respondents to grant applicant pay protection as mentioned above retrospectively from the date of his joining as GDSBPM and effect payment of arrears due to him, within a time frame as deemed proper to this Hon'ble Tribunal.*
3. *To grant such other relief which may be prayed for and/or which this Hon'ble Tribunal may deem fit and proper to grant, in the facts and circumstances of the case.*
4. *To award costs in favour of the applicant.*

2. The applicant has relied upon the decision of the Tribunal in OA No. 261 of 2010 vide Annexure A-7 order dated 01-04-2011.

3. Respondents have contested the O.A. According to them, the applicant was holding the post of GDS MD Parathode under Munnar Sub Division in which Inspector of Posts, Munnar Sub Division is the appointing authority. The appointment now held by the applicant comes under the Kattapana Sub



Division of the Idukki Division. Hence, as the two posts are under different units, he is not entitled to protection of TRCA.

4. Counsel for the applicant relied upon the aforesaid Annexure A-7 order as also the full Bench Decision in OA No. 270/06. He has stated that the applicant's earlier TRCA was Rs 4,820/- and since the said Post Office was graduated to a Departmental Post Office, the applicant was in any way to be moved out and it was due to medical ground that he sought transfer to the present GDS Post Office and in such transfers, as held by the Tribunal in Full Bench case referred to above as also in various other decisions, protection of TRCA drawn is available, subject however, to the fact that such a protection shall not exceed the maximum of the TRCA scale admissible to the post. The Counsel also submitted that in such a case, the term unit should not be given a constricted meaning of "sub division" but it should be within the same Division.

5. Counsel for the respondents reiterated the contents as in the reply.

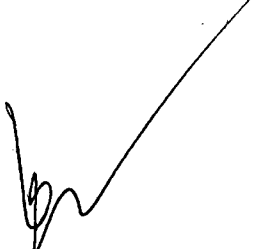
6. Arguments were heard and documents perused. The facts not in dispute, the same obviates debate. The Full Bench decision summarizes the extent of TRCA Protection as under:-

"49. Now, the entire situation would be summarised and references duly answered as under:-

(a) As per the rules themselves, in so far as transfer within recruitment unit and in the same post with identical TRCA, there shall be no depletion in the quantum of TRCA drawn by the transferred individual.

(b) In so far as transfer from one post to the same Post with Diff. TRCA and within the same Recruitment Unit, administrative instructions provide for protection of the same vide order dated 11th October, 2004, subject only to the maximum of the TRCA in the transferred unit (i.e. maximum in the lower TRCA).

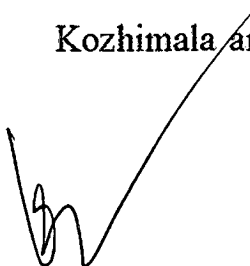
(c) In so far as transfer from one post to a Different Post but with same TRCA and within the same Recruitment Unit, as in the case of (a) above, protection of TRCA is admissible.



- (d) *In respect of transfer from one post to another within the same recruitment unit but with different TRCA (i.e. from higher to lower), pay protection on the same lines as in respect of (b) above would be available.*
- (e) *In so far as transfer from a post carrying lower TRCA to the same category or another category, but carrying higher TRCA, the very transfer itself is not permissible as held by the High Court in the case of Senior Superintendent of Post Offices vs. Raji Mol, 2004 (1) KLT 183. Such induction should be as a fresh recruitment. For, in so far as appointment to the post of GDS is concerned, the practice is that it is a sort of local recruitment with certain conditions of being in a position to arrange for some accommodation to run the office and with certain income from other sources and if an individual from one recruitment unit to another is shifted his move would result in a vacancy in his parent Recruitment Unit and the beneficiary of that vacancy would be only a local person of that area and not any one who is in the other recruitment unit. Thus, when one individual seeks transfer from one post to another (in the same category or other category) from one Recruitment Unit to another, he has to compete with others who apply for the same and in case of selection, he shall have to be treated as a fresh hand and the price he pays for the same would be to lose protection of his TRCA.*

7. The case of the applicant falls under the category (d) above. The argument of the counsel for the applicant that the term 'same unit' shall mean the same Division has full substance. The respondents are not right in contending that TRCA Protection is admissible only when the request transfer is within the same Sub Division. Again, had not the post office been elevated to the status of departmental post office, the applicant would not have applied for his transfer. His move from the post of GDSBPM, Parathode Idukki should in one way be treated as one of transfer on administrative reasons and need not be even construed as a request transfer. Hence, the applicant is entitled to protection of TRCA to the extent of the maximum of the TRCA Scale as on date, i.e. Rs. 4245. In the event of the work load in the said Office being reviewed and the TRCA enhanced in future, his pay protection at that time would extend to Rs 4,820/-. It is so ordered.

8. Thus, the OA is allowed. Respondents are directed to fix the TRCA of the applicant at the maximum of the present TRCA for the post of GDSBPM, Kozhimala and make available the same right from the date of his joining the

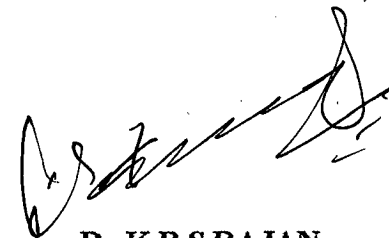


said post.

9. This order shall be complied with, within a period of three months from the date of communication of the order.

10. No costs.


K.NOORJEHAN
ADMINISTRATIVE MEMBER


Dr K.B.S.RAJAN
JUDICIAL MEMBER