

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

O.A. NO. 586 OF 2011

Friday, this the *19th* day of July, 2013

CORAM:

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

HON'BLE Mr. K. GEORGE JOSEPH, ADMINISTRATIVE MEMBER

C.D. Syamala,
Working as GDS BPM Pottenkad (P.O),
Residing at Kodoor House,
Baisonvally, Pottenkad,
Chithirapuram – 685 565.

... Applicant

(By Advocate Mr. P.C. Sebastian)

versus

1. The Superintendent of Post Offices,
Idukki Division,
Thodupuzha – 685 584.
2. The Chief Postmaster General,
Kerala Circle,
Thiruvananthapuram – 695 033.
3. The Union of India,
represented by Secretary to Government of India
Ministry of Communications,
Department of Posts
New Delhi – 110 001.

... Respondents

(By Advocate Mr. Sunil Jacob Jose, SCGSC)

The application having been heard on 12.07.2013, the Tribunal on 19.07.2013 delivered the following:-

ORDER

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

Reduction in the TRCA from ₹ 4915/- to ₹ 4575/- from February, 2010 onwards is the grievance of the applicant in this OA who has sought for the following reliefs:-

- (i) To declare that action on the part of the respondents in reducing applicant's basic TRCA from ₹4915/- to ₹4575/- from the month of February, 2010 onwards is illegal and that applicant is entitled to continue



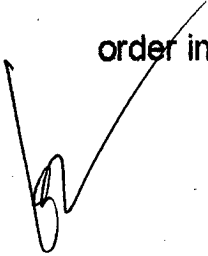
TRCA at the pre reduced rate even after her transfer as GDS BPM Pottenkad.

(ii) To issue appropriate orders/directions to the respondent to restore the reduced TRCA with effect from the date of reduction and effect payment of arrears due to the applicant within a time limit as deemed proper to this Hon'ble Tribunal.


(iii) To grant such other relief which may be prayed for which this Tribunal may deem fit and proper to grant, in the facts and circumstances of the case.

2. Briefly stated, the applicant was appointed as regular incumbent as Extra Departmental Branch Postmaster, now Gramin Dak Sevak Branch Postmaster in the N.R.City Post Office with effect from September, 1983. The vacancy arose to the post of GDS BPM Pottenkad in the same recruitment unit which is near to the applicant's matrimonial residence. Consequently she had applied for a transfer against that vacancy in terms of Annexure A-1 Departmental Post letter dated 17.07.2006. The request was approved by the respondents and the applicant was transferred to the said Post Office vide Annexures A-2 and A-3. She joined the said post on 01.08.2009 and is continuing as such.

3. The applicant was drawing TRCA at ₹ 4915/- till the month of January, 2010. Annexure A-4 refers. However, Annexure A-5 pay slip would reflect that her TTCA has been reduced drastically from ₹ 4915/- to ₹ 4575/- without notice. Representations filed by the applicant yielded no response. According to the applicant such reduction is inconsistent with the decision of the Tribunal in Full Bench order as also subsequent orders vide order in OA 261/10 and 836/10. Hence this OA.



4. The respondents have contested the OA. According to them, the applicant was originally drawing ₹ 2160/- as basic TRCA in the pre revised slab ₹1600-40-2400 when she was employed as BPM, N.R.City. At the time of her transfer to Pottenkad, TRCA applicable to that of BPM post was ₹2125-50-3125 and the applicant should have been fixed at the minimum TRCA of ₹ 2125/-. However, she was inadvertently granted ₹ 2160/- by protecting her last TRCA drawn. Effective from 01.01.2006 on the recommendation of R.S Nataraja Murthy Committee, the TRCA was revised to ₹4575-85-7125/- and the applicant was fixed the TRCA of ₹ 4660/- .According to the respondents, the fixation should have been at Rs.4640/- in the replacement TRCA slab of ₹ 3660-70-5760. Thus, as on 31.07.2009 after allowing three increments the applicant's TRCA was ₹ 4915/- whereas it ought to have been ₹ 4575/-. On her transfer to Pottenkad on 01.08.2009 she was eligible for the basic TRCA of ₹ 4575/- only, the same being minimum TRCA to GDS BPM in the transferred Post Office which is ₹ 4575-85-7125. The discrepancy of the applicant having been paid more came to notice when her TRCA for February, 2010 was fixed. The said reduction is not in fact the reduction but the error was rectified, which, according to the **Union of India & Ors. vs. Sujatha Vedachalam & Anr. AR 2000 SC 2709**, is permissible. It is also contended by the respondents that the applicant is eligible for the minimum of the TRCA of the new post as per actual work load and she is not eligible for protection of allowances. Here, the protection given inadvertently was thus corrected. It is also contended by the respondents that the applicant's case is covered as in Para 49 (e) of the Full Bench order dated 14.11.2008 in OA 270/06 and connected matters.



5. Before the case was finally heard, the respondents were directed to make available the details / information in a tabular form as to the pre revised and revised pay scale as also whether any review was conducted. The same has been filed by the respondents which has also been taken on record.

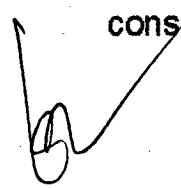
6. Counsel for applicant argued that the applicant fulfills the qualification for appointment as BPM, Pottenkad and as such the transfer of the applicant from N.R.City to Pottenkad was in order. At the time when she was transferred, the basic TRCA enjoyed by her was ₹ 2160/- in the pre-revised TRCA slab at N.R.City Branch office, TRCA being 1600-40-2400. This was sough tot be revised to 3660-70-5760 with effect from 01.01.2006. The revision came to be effected during September, 2009 though with retrospective effect from 01.01.2006. It was prior to the same that the applicant got transferred to Pottenkad as could be seen from Annexure A-3 order dated 23.07.2009. The applicant was happy and satisfied as she got ₹ 4915/- as TRCA when it was re fixed as per TRCA scale of BPM, Pottenkad. Bringing the same to the minimum of ₹ 4575/- in the TRCA scale of 4575-85-7125, it is against the decision of the Full Bench which provides for protection of the TRCA drawn when transferred from one unit to another within in the same recruitment unit.

7. In the instant case, the post of BPM Poottenkad Post Office carries a higher TRCA scale when compared to that of BPM, N.R.City. But these two are in the same recruitment unit as stated by the applicant vide Para 4 (a) to which there has been no denial. Para 49 (e) of the Full Bench judgment dated 14.11.2008 reads as under:-

49. (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.*

8. It is the above decision that the respondents are relying upon to fix TRCA of the applicant to the minimum in the TRCA scale applicable to BPM, Pottenkad Post Office, as the same is higher than TRCA scale of the previous post held by the applicant.

9. The Full Bench decision while dealing with fixation of TRCA, when the TRCA of the transferred post is higher than that of the previous post, it has specifically mentioned about, "transfer from one recruitment unit to another". In the instant case, the recruitment units are one and the same. The applicant fulfills the qualification for the post of GDSBPM. The appointment by transfer as a conscious decision by the authority. The applicant was drawing ₹ 4915/- at the time of her transfer (though calculated later on on the basis of revised TRCA scale). Under the circumstances, it is only appropriate that TRCA drawn by the applicant is protected since it is in the same recruitment unit and thus need not be considered as a fresh recruitment.



10. In view of the above, OA is **allowed**. Respondents are directed not to truncate the TRCA of the applicant and the difference in the TRCA be paid to the applicant within a period of four months from the date of communication of this order. The TRCA with necessary increments should be kept in tact with effect from the pay for the month of February, 2010 onwards.

11. No order as to costs.

Dated, the ^{19th} July, 2013.



K GEORGE JOSEPH
ADMINISTRATIVE MEMBER



Dr.K.B.S.RAJAN
JUDICIAL MEMBER

VS