

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A.No.603/99.

Wednesday this the 12th day of September 2001.

CORAM:

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

1. B.Padmini,
L.S.G.Postal Assistant,
Office of the Post Master General,
Northern Region,
Kozhikode-673 011.
2. A.Indira,
L.S.G.Postal Assistant,
Office of the Post Master General,
Northern Region,
Kozhikode-673 011. Applicants

(By Advocate Shri O.V.Radhakrishnan)
(By Advocate Shri M.P.Prakash)
(By Advocate Shri Thomaskutty M.A.)

Vs.

1. Chief Postmastrr General,
Kerala Circle, Thiruvananthapuram.
2. Director General of Posts,
Department of Posts,
New Delhi.
3. Union of India, represented by
its Secretary, Ministry of
Communications, New Delhi.
4. Post Master General,
Northern Rgion,
Kozhikode-673 011.
5. Director (Establishment)
Office of the Director General
of Posts, Department of Posts,
New Delhi. Respondents

(By Advocate Shri K.R.Rajkumar, ACGSC)

The application having been heard on 12th September 2001
the Tribunal on the same day delivered the following:

O R D E R

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

The applicants 1 and 2 were working as Upper Division Clerks in the office of the 4th respondent when the Time Bound One Promotion (TBOP for short) was made applicable to the Lower Division Clerks and Upper Division Clerks in the administrative offices by order dated 22.7.1993 and the scheme was brought into effect from 26.6.93. Paragraph 3.2 of the scheme reads as follows:

The posts of LDCs (Rs.950-1500) and UDCs (Rs.1200-2040) in the Circle Offices, except of the LDCs/UDCs who opt to remain in the existing scale, will be abolished and an equal number of posts of time scale Postal Assistants (C.O.) Rs.975-1660 will be created. The remaining posts will, however, be converted as Postal Assistants (C.O.) as and when the concerned LDC/UDC ceases to hold that post. All the existing LDCs/UDCs will be required to furnish within one month, their option under FR 23 according to which they may, if they so like, retain their existing scale of pay which would be personal to such officials. The option once exercised will be final.

On the basis of this scheme the applicants opted to the Postal Assistants (C.O.) cadre. Paragraph 3.4 of the scheme in Annexure A-1 reads as follows.

"The officials who do not opt for their old scales will be brought into the grade of Postal Assistants (C.O.) and their pay will be fixed under FR 22(I)(a)(2) by treating the posts in the time scale as not involving assumption of higher duties and responsibilities."

As the applicants had not completed 16 years of service as on the date of their pay was fixed in the scale of Rs.975-1660 at Rs.1480 and Rs.1460 respectively w.e.f. 1.5.94 in the case of first applicant and w.e.f. 26.6.93 in the case of the 2nd applicant. Paragraph 3.6 of the scheme in Annexure A-1 reads as follows:

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"The existing officials who do not opt for the old scales would be considered for grant of first promotion in the higher scale of Rs.1400-2300 if they complete/have completed 16 years of service as LDC or as LDC and UDC or as Postal Assistant/Sorting Assistant and UDC taken together, and then for second promotion in the next higher scale of Rs.1600-2660 after completion of 26 years of service. Their pay on grant of promotions under Time Bound One Promotion Scheme and Second Promotion will be fixed under FR.22(I)(a)(1)."

2. According to this provision under the scheme on completion of 16 years of service, the pay was fixed at Rs.1520/-w.e.f.1.5.95 and Rs.1570/- w.e.f 23.4.94 in the case of applicants 1 & 2 respectively. Thereafter, the Government of India, Ministry of Communications, Department of Posts issued an order dated 8.2.96 (R-1) directing the preponement of the placement of senior officials in the higher scale with effect from the date on which their juniors were granted TBOP promotion. In implementation of the above order, an order was issued on 24.4.96 (A10) whereby the date of TBOP promotion of the applicants 1&2 was made effective w.e.f.26.6.93. While so, purportedly in accordance with the instructions contained in a clarificatory letter issued by the Government of India, Ministry of communications, Department of Posts dated 8.8.95 (A11) when steps were in progress to revise and refix the pay of the applicants, the applicants made representations. The applicants were informed by letters dated 13.5.99 (A-15 & A-16) that in view of the observations made by the Internal Finance Audit, the applicants' pay had to be re-fixed at Rs.1480/w.e.f. 26.6.93 fixing their pay directly from the pay of UDCs and the overpayment would be recovered in four instalments. In these letters (A-15 and A-16), reference was made to a letter of the Ministry of Communications, Department of Posts dated 28.4.1999 (A17). Aggrieved by A-12, A-15, A-16 and A-17 orders

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the applicant have filed this application seeking to have these orders set aside. Though the applicants have also prayed for setting aside A-12 order, at the time of hearing the learned counsel of the applicant submitted that the relief sought for to set aside A-12 is not pressed. It is alleged in the application that the preponement of the date of TBOP promotion of the applicants did not call for a retrospective refixation of their pay to their detriment, the applicants contend that the impugned orders A-15 to A-17 are liable to be struck down.

3. The respondents resist the claim of the applicants. They contend that as the applicants had been promoted under the TBOP scheme w.e.f. 26.6.93, their pay have got to be fixed with reference to their pay as UDCs in terms of A-11 letter dated 8.8.95 and the impugned orders have been issued pursuant to the observations to that effect by the Internal Finance Audit.

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 (A4), 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

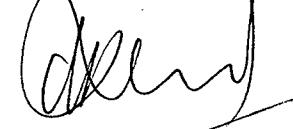


fixed in the case of the seniors who had been granted TBOP placement only later should be reopened and refixed to their detriment. In the guise of granting a benefit of ante dated placement in the higher scale, the applicants should not be put to a financial loss. The applicants' pay in the scale of Rs.975-1660 fixed on their cadre change in accordance with the provisions contained in paragraph 3.4 of A-1 scheme under FR-22(I)(a)(2). Their pay on placement in the TBOP scheme was fixed under FR 22(I)(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 the 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.

Dated the 12th September, 2001.


T.N.T. NAYAR
ADMINISTRATIVE MEMBER


A.V. HARIDASAN
VICE-CHAIRMAN

APPENDIX

1. Annexure A1 True copy of letter dated 22/7/93 of the 2nd respondent.
2. Annexure A2 True copy of the option letter dated 18/3/94 of the 1st applicant
3. Annexure A3 True copy of the option letter dated 21/3/94 of the 2nd applicant.
4. Annexure A4 True copy of the order No. ST/300/2/93 dated 17/3/94 of the 1st respondent
5. Annexure A5 True copy of the statement of Fixation of Pay of the 1st applicant.
6. Annexure A6 True copy of the Statement of Fixation of Pay of the 2nd applicant
7. Annexure A7 True copy of the corrigendum No. ST/300/2/94 dated 8/5/95 of the 1st respondent
8. Annexure A8 True copy of the statement of Fixation of Pay dated 19/10/94 of the 1st applicant
9. Annexure A9 True copy of the statement of Fixation of Pay dated 19/10/94 of the 2nd applicant
10. Annexure A10 True copy of the order No. ST/300/2/94 dated 24/4/96 of the 1st respondent
11. Annexure A11 True copy of the Letter No. 2-18/93-PE-I dated 8/8/95 of the Assistant Director General (Estt)
12. Annexure A12 True copy of the order No. 20-2/92-PE.1 dated 1/2/95 of the 5th respondent.
13. Annexure A13 True copy of the representation dated 1/10/96 submitted by the 1st applicant before the 2nd respondent.
14. Annexure A14 True copy of the representation dated 1/10/96 submitted by the 2nd applicant before the 2nd respondent.

15. Annexure A15 True copy of the order No.A&P/18/1/87/111 dated 23/ 5/99 of the 4th respondent.

16. Annexure A16 True copy of the order No.A&P/18-1/87/111 dated 13/5/99 of the 4th respondent.

17. Annexure A17 True copy of the letter No.44-22/97-SPB.II dated 28/4/99 of the 2nd respondent

18. Annexure R1 True copy of the letter No.22-5/95.P.E.I dated 8/2/96 issued by Assistant Director General.

19. Annexure R2 True copy of the order No.31-26/83-PE.I dated 17/12/83 issued by Dy.Director General (P)to all Heads of Circles.

20. Annexure R3 True copy of IFA's Note No.500/IFA/98-99 dated 20/1/99

21. Annexure R4 True copy of the revised fixation memo prepared in pursuance of the IFA's note issued Sr.Accounts Officer,Kozhikode regarding Ist applicant

22. Annexure R5 True copy of the revised fixation memo prepared in pursuance of the IFA's note issued Sr.Accounts Officer,Kozhikode regarding the Ist applicant.

23. Annexure R6 True copy of the Lr.No.2-146/96-PAP/PE.I dated General (Estt) to all Chief Postmaster Generals & all Postmaster Generals.

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