

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A. No. 609 of 2000.

Monday this the 31st day of July 2000.

CORAM:

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

HON'BLE MR. G.RAMAKRISHNAN, ADMINISTRATIVE MEMBER

K. Vimalakumari,
W/o S. Unnikrishnan,
Postal Assistant (CO),
Office of Chief Post Master General,
Trivandrum 695 033.

Applicant

(By Advocate Shri M.R. Rajendran Nair)

Vs.

1. Union of India represented by
Secretary to Government of India,
Ministry of Communications,
New Delhi.

2. The Director General,
Department of Posts,
New Delhi.

3. The Chief Postmaster General,
Trivandrum -695 033. Respondents

(By Advocate Shri. A. Sathianathan, ACGSC)

The application having been heard on 31st July 2000
the Tribunal on the same day delivered the following:

O R D E R

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

The applicant was appointed as Lower Division Clerk
in the Lok Naik Jaya Prakash Narayan Hospital, New Delhi,
under the Delhi Administration on 5.3.81 by order dated
13.2.81. Pursuant to her request for transfer on
compassionate grounds to Kerala she was appointed by transfer
in Chief Post Master General's (CPMG for short) Office,

Department of Posts, Kerala Circle, Trivandrum by order dated 27.1.87. The approval of her transfer was made on the following conditions:

- i. She shall have to tender resignation from the CSCS and shall have no right or claim to seek rejoining the service subsequently.
- ii. Her past services shall not count for seniority in the new office which shall be regulated in accordance with the rules.
- iii. She shall not be entitled to any TA/TP etc.
- iv. She shall have to undertake transfer liability throughout the circle.

2. Pursuant to the above, the applicant joined in the office of the CPMG, Kerala Circle, Trivandrum on 27.1.87 as LDC. The present grievance of the applicant is that she is not being given the benefit of promotion under the TBOP scheme though she has completed 16 years of service as on 5.3.97 counting from the date of her initial entry in the Central Secretariat Clerical Service (CSCS for short) under the Delhi Administration. To her representation claiming Time Bound One Promotion (TBOP for short) counting her service in the Delhi Administration, the applicant has been given the impugned order dated 27.3.2000 on the ground that

the service rendered by her in the department of Posts alone would be counted as per the existing policy contained in letter No. 51-14/92-SPB.I dated 28.12.1994.

3. Aggrieved by that the applicant filed this application seeking to have this order (A-1) as also a similar order passed on 3.12.99 (A-3) set aside declaring that she is entitled to have her past service as LDC rendered under the Delhi Administration reckoned towards determining the eligibility for the grant of TBOP/BCR promotion and for a direction to the respondents to grant TBOP/BCR promotions reckoning her service rendered under the Delhi Administration also with consequential benefits.

4. The respondents in their reply statement seek to justify the impugned order on the ground that as per the existing instructions, the service rendered with the department of Posts alone, can be counted for TBOP/BCR promotions and therefore the claim of the applicant has no legal basis.

5. In Renu Mullick (Smt.) Vs. Union of India and another reported in (1994) 26 ATC 602, the Apex Court has held that a person cannot count the service in the transferred department for the purpose of seniority but would not lose the service rendered prior to the transfer as qualifying service for the purpose of Departmental Examinations. A similar view was taken in Union of India Vs. C.N. Ponnappan reported in (1996) 1 SCC 524 by the Apex

Court. In a recent ruling of the Apex Court in Dwijen Chandra Sarkar and another Vs. Union of India and others reported in (1999) 2 SCC 119 it was held that a person rendered surplus and redeployed would be eligible to count the period of service rendered in the department where he was rendered surplus for the purpose of promotion under TBOP.

6. The principle enunciated in all these rulings is that though a person either rendered surplus and redeployed or transferred from one department to another would not count his service in the transferred department for the purpose of seniority, but, the entire service rendered in the previous department would be counted for qualifying service for pension, eligibility for appearing the examination for promotion etc. That means the service rendered before redeployment or transfer as the case may be, cannot be completely wiped off. The promotion under the TBOP and BCR schemes are intended to give financial benefits to the incumbents after continuing in one grade for a certain period. Therefore, we are of the view that the applicant in this case is entitled to count her service rendered in the Delhi Administration prior to her transfer to the Postal Department for the purpose of TBOP/BCR promotions, though the applicant has not yet become due for promotion under BCR scheme, as her services started only in the year 1981.

7. In the result, the application is allowed. The impugned orders A-1 and A-3 are set aside. We declare that the applicant is entitled to have her past services as LDC

rendered under Delhi Administration should be reckoned towards determining her eligibility for the grant of TBOP/BCR promotions and we direct the respondents to grant the applicant promotion under TBOP scheme accordingly w.e.f. the due date counting her services under the Delhi Administration also with all consequential benefits. We direct that the necessary orders in that regard shall be issued by the competent authority within a period of two months from the date of receipt of a copy of this order. No costs.

Dated 31st July 2000.



G. RAMAKRISHNAN
ADMINISTRATIVE MEMBER



A.V. HARIDASAN
VICE CHAIRMAN

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List of annexures referred to in the order:

Annexure A1: True copy of the order No. ST/300/2/99(Pt.) dated 27/3/2000 issued for the 2nd respondent.

Annexure A3: Order No. ST/300/2/99(pt.) Dated 3.12.99 issued for the 2nd respondent.