

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

Original Application No. 610 of 2012

TUESDAY, this the 01st day of January, 2013

CORAM:

Hon'ble Mr. Justice P.R. Raman, Judicial Member
Hon'ble Mr. K. George Joseph, Administrative Member

N. Sadanandan, S/o. Late Narayanan,
 Njarakkattuvelyil, Vayalar PO,
 Cherthala, Alappuzha-688 536, Working as
 Gramin Dak Sevak Mail Carrier,
 Mayithara Market Post Office, Mayithara,
 Cherthala-686 539.

..... **Applicant**

(By Advocate – Mr. P.K. Madhusoodhanan)

V e r s u s

1. Union of India, repersented by its Secretary to Government, Department of Posts, Ministry of Communication, New Delhi-110 001.
2. Chief Postmaster General, Kerala Circle, Department of Posts, Thiruvananthapuram.
3. The Post Master General, Department of Posts, Kochi-682 018.
4. The Superintendent of Post Offices, Alappuzha Division, Department of Posts, Alappuzha-688 012.
5. Sub Divisional Inspector, Cherthala Sub Division, Department of Posts, Cherthala-628 524.

..... **Respondents**

(By Advocate – Mr. S. Jamal, ACGSC)

This application having been heard on 13.12.2012, the Tribunal on

01-01-2013 delivered the following:

ORDER

By Hon'ble Mr. K. George Joseph, Administrative Member-

The applicant was working as GDS Mail Packer, Cherthala Head Post



Office up to 15.5.2011. He was re-deployed as GDS Mail Carrier, Mayithara Market from 16.5.2011. When the arrear on the implementation of the 6th pay revision was granted to the applicant he found that it was calculated in the lower scale of pay with reduction in his TRCA. His representation for protection of his TRCA was of no avail. Aggrieved he has filed this OA for the following reliefs:-

“(a) Declare that the applicant is eligible and entitled to fixation and/draw pay in the Time Related Continuity Allowance in scale of pay of Rs. 1545-25-2020 (old)/Rs.3635-65-5585 (revised) protecting the same and grant and disburse the arrears arising therefrom to him in accordance with law;

(b) Issue necessary directions to the respondents to refix his pay in the Time Related Continuity Allowance in scale of pay of Rs. 1545-25-2020 (old)/Rs. 3635-65-5585 (new) and disburse the differences in arrears due to him untrammelled by the pay fixed and paid in the lower scale of Rs. 2870-4370 from October, 2009 onwards till now;

(c) Issue necessary directions to the respondents to fix his pay in the higher TRCA of Rs. 3635-65-5585 with effect from 1.10.2009 and grant and disburse to him all the consequential benefits including arrears, within a time limit to be fixed by this Hon'ble Tribunal;

(d) Declare that the pay fixation of the applicant in scale Rs. 2870-50-4370 in October, 2009 evident from Annexure A8 and in subsequent months are bad in law and the Time Related Continuity Allowance in scale Rs. 1545-25-2020 granted to the applicant since 1.2.1983, Annexure A1 to A3 etc., shall be protected and the same be fixed and continue to pay the same accordingly as held by the Full Bench of this Hon'ble Tribunal in similar case which squarely applies to the case;

(e) Issue necessary directions to the respondents to grant and pay to the applicant the arrears of VIth Central Pay Commission from 1.1.2006 in the Time Related Continuity Allowance in scale Rs. 1545-25-2020;

(f) Award costs of these proceedings to the applicant;

And

(g) Grant such other and further reliefs as this Hon'ble Tribunal deems fit and proper.”

2. The applicant contended that unilaterally lowering his TRCA without being giving him an opportunity of being heard and without notice to him is



bad in law. There is no justification at all in treating his TRCA in a lower scale for the purpose of calculation of pay revision alone for the period from 11.1.2006 to 30.9.2009. The fixation of his pay in lower TRCA is arbitrary and against settled service conditions and against the Full Bench decision of this Tribunal dated 14.11.2008 in OA No. 270 of 2006 and connected cases which squarely applies to the case at hand. If his pay is allowed to be fixed in the lower scale of Rs 1220-1600/- instead of his due claim of Rs. 1545-2020/- it would adversely affect his retirement benefits considerably, causing miscarriage of justice and manifest in justice for no fault of his.

3. The respondents in their reply statement submitted that the action of re-assessing of work load of the applicant as two hours forty minutes as on 1.1.2006 i.e. the date of implementation of the recommendation of the R.S. Nataraja Murthy Committee on revision on wage structure of GDS and the subsequent revision of TRCA to lower slab in the pre-revised scale were not correct. Hence, it was ordered by the 3rd respondent to consider the case of the applicant to give additional increments in TRCA in the higher slab of 3635-5585 on 1.1.2007, 1.1.2008 and 1.1.2009 and to examine the justification of reduction in TRCA beyond 30.9.2009 i.e. the date of implementation of revision of wages and to consider additional duty given to the applicant to be a part of normal work by stopping payment of combined duty allowance paid to him and to recover the excess paid combined duty allowance from the arrears of TRCA due to him. Consequently the applicant had been granted annual increments in TRCA in the slab of Rs. 3635-5585/- on 1.1.2007, 1.1.2008 and 1.1.2009. The work load of additional duty has



been added to the normal work load of GDMC and the revised work load has been arrived at as four hours twenty minutes. Hence, the GDS has been placed in the higher TRCA slab 3635-5585 with retrospective effect from 16.5.2011 simultaneously withdrawing payment of combined duty allowance for conveyance of speed post bags. The over paid amount of Rs. 4,923/- by way of bringing the GDS to higher TRCA slab of Rs. 3635-5585/- was to be recovered by withdrawing combined duty allowance. The applicant has already been paid an amount of Rs. 6609/- on 8.6.2011 and Rs. 900/- on 7.8.2012 as arrears of wages on revision.

4. In the rejoinder statement the applicants submitted that he has not been paid any combined duty allowance as stated by the respondents in the reply statement filed by them. He has been paid only actual autorikshaw charges on production of money receipt before the Sub Post Master, Mayithara. The demand to recover the same on the pretext of excess paid combined duty allowance from the arrears of the TRCA due to the applicant is arbitrary and illegal.

5. We have heard the learned counsel for the parties and perused the records.

6. In OA No. 270 of 2006 and connected cases the Full Bench of this Tribunal held 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."

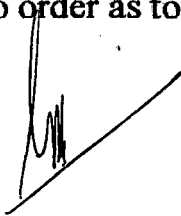
7. The above decision of the Full Bench is squarely applicable to the instant case. The applicant was redeployed to Mayithara Market Post from Chertala Head Post Office in the very same seniority unit as ED Mail Packer. Therefore, he is eligible and entitle to fixation of TRCA in the higher slab of Rs. 3635-5585/- and his TRCA is to be protected and arrears arising therefrom in accordance with law is to be disbursed as prayed for.



8. Accordingly, the OA is allowed as under:-

The respondents are directed to re-fix the pay of the applicant in the TRCA in the scale of pay of Rs. 3635-5585 and disburse the difference in arrears due to him untrammelled by the pay fixed and paid in lower scale of of Rs. 2870-4370/- from October, 2009 onwards till date with all consequential benefits. The alleged excess payment recovered should be refunded. If any excess payment of combined duty allowance is to be recovered, the same shall not be done without following the due process of law by affording him an opportunity of being heard and deciding the issue on merits by way of a reasoned order to be communicated to him. The aforesaid orders shall be complied with within a period of three months from the date of receipt of a copy of this order.

9. No order as to costs.



(K. GEORGE JOSEPH)
ADMINISTRATIVE MEMBER



(JUSTICE P.R. RAMAN)
JUDICIAL MEMBER

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