

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

**O.A.No.75/2007
Dated the 22nd day of July, 2008.**

CORAM :

**HON'BLE MR.GEORGE PARACKEN, JUDICIAL MEMBER
HON'BLE DR.K.S.SUGATHAN, ADMINISTRATIVE MEMBER**

**T.R Ambujakshy
Postmaster,
Mukhya Dak Ghar,
Puduppally PO, Kottayam District,
Residing at Puduppally, Kottayam.** ... Applicant

By Advocate Mr.T.C.G.Swamy

V/s.

- 1 Union of India
represented by
The Secretary to Government of India,
Dept. of Posts, New Delhi
- 2 The Chief Postmaster General,
Kerala Postal Circle,
Thiruvananthapuram.
- 3 The Postmaster General,
Central Region, Kochi
- 4 The Senior Superintendent. of Post Offices,
Kottayam Postal Division,
Kottayam ... Respondents

By Advocate Mrs.Aysha Youseff ACGSC

This application having been heard on 22nd July, 2008, the Tribunal on the same day delivered the following

(ORDER)

Hon'ble Mr.George Paracken, Judicial Member

The applicant is aggrieved by the Annexure A-7 letter dated 7.6.2005 of the 4th respondent, namely, the Senior Superintendent. of Post Offices, Kottayam Postal Division, denying her Higher Selection Grade in the scale of 5000-8000 from the due date on account of the judicial proceedings pending against her. She has, therefore, sought the following reliefs in the Original Application :-

- i Call for the records leading to the issue of Annexure A7 and quash the same.
- ii Declare that the applicant is entitled to be granted fitment/promotion in the scale of pay of Rs.1600-2660 with effect from 1.7.1992 in terms of Annexure A4; and,
- iii Direct the respondents to consider and grant the same to the applicant with effect from 1.7.1992, with all consequential benefits including arrears of pay and allowances arising therefrom;
- iv Award costs of and incidental to this application;
- v Pass such other orders or directions as may be found just and proper by this Hon'ble Tribunal.

2 Brief facts of the case are that the applicant was initially appointed as a clerk(presently designated as Postal Assistant) on 30.5.1966. With effect from 30.11.1983, she was promoted to the Lower Selection Grade under the Time Bound One Promotion Scheme (TBOP for short) in the scale of Rs.1400-2300 which has been revised to Rs.4500-7000 after the Vth Pay Commission report. She was placed under suspension with effect from 20.3.1989 on allegations of misconduct. On the same set of facts an FIR was also filed against her during 1989. The

disciplinary proceedings were initiated against her under Rule 14 of CCS (CCA) Rules culminated in her dismissal from service w.e.f. 26.4.1991 but this Tribunal vide order dated 24.8.1993 in OA 1194/93 set aside the same and she was reinstated in service w.e.f. 05.09.94. The intervening period from the date of dismissal to the date of reinstatement was also regularised as duty for all purposes. As regards the criminal case was concerned, the Crime Branch commenced investigation in October 1992, the final report was filed before the Chief Judicial Magistrate Court, Kottayam, charges were framed on 18.6.1997 and it proceeded as two calender cases, namely, CC.No.259/1997 and CC.No.265/1997. In CC.No.259/1997 the applicant was convicted and released under section 4(1) of the Probation of Offenders Act directing her to keep good conduct and to be of good behaviour for a period of one year. However, on appeal before the Court of Sessions, Kottayam Division, in Criminal Appeal No.414/2001, she was acquitted by judgment dated 21.8.2003 (Annexure A-5). The other case, namely, CC No.265/97 which was pending before the Chief Judicial Magistrate was transferred to the court of First Class Judicial Magistrate (Court-I) Kottayam and vide judgment dated 6.6.2008 in CC No.1090/2001 (copy produced today in the Court) she was found not guilty of the charges framed against her under sections 408, 468, 471 and 420 IPC and she was acquitted under section 248(1) of the Cr.P.C..

3 Meanwhile, Bi-ennial Cadre Review(BCR for short) Scheme for those who were covered under the TBOP Scheme was introduced in the postal Department w.e.f. 01.10.1991 (Annexure A-4) and in terms of the

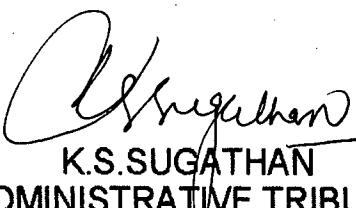
said scheme, the applicant became eligible to be considered for promotion/fitment in scale of Rs.1600-2660 (5000-8000) w.e.f. 01.07.1992. She was not granted the benefits of said scheme because of the pendency of the disciplinary case and the criminal case. For the same reasons, she was also not permitted to cross the efficiency bar at the stage of Rs.1800/- in the scale of Rs.1400-40-1800-EB-50-2300. Her contention is that she should have been considered both for promotion under the BCR scheme w.e.f. 1.7.1992. and for crossing the efficiency bar because no charge was pending against her under the disciplinary proceedings or under the criminal proceedings on the respective date on which they fell due.

4 The Respondents submitted that the DPC met on 16.10.1995 considered her case for crossing the efficiency bar but since permission was already issued to prosecute her in the criminal case pending against her, she was not considered fit for crossing the efficiency bar at that time. However, the Committee has observed that there would not be any objection to permit her to cross the efficiency bar at the stage of Rs.1800/-, if she is acquitted in the criminal case. The respondents have also submitted that the applicant was not considered for financial upgradation under the BCR Scheme for the same reasons..

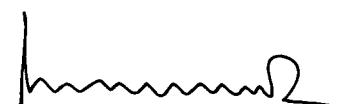
5 We have heard Advocate Ms.Heera for Mr.T C G Swamy for the Applicant and Advocate Mrs.Aysha Youseff ACGSC for the respondents. Now, since the disciplinary case as well as the criminal cases pending against the applicant have been settled, respondents are directed



to consider her case for both crossing the efficiency bar as well as granting promotion to Higher Selection Grade under the BCR scheme, in accordance with the rules. The aforesaid direction shall be complied with, within three months from the date of receipt of copy of this order. There shall be no orders as to costs.



K.S. SUGATHAN
ADMINISTRATIVE TRIBUNAL



GEORGE PARACKEN
JUDICIAL MEMBER

abp