

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A.NO.133/2001

Tuesday, this the 3rd day of December, 2002.

CORAM;

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

HON'BLE MR T.N.T.NAYAR, ADMINISTRATIVE MEMBER

K.R.Lakshmi,
PA(CO), O/o PMG Central Region,
Kochi. - Applicant

By Advocate Mr Lilly James

vs

1. Union of India represented by
Director General,
Department of Posts,
Dak Bhavan,
New Delhi-110 001.
2. The Chief Postmaster General,
Kerala Circle,
Thiruvanthapuram.
3. The Postmaster General,
Central Region,
Kerala Circle,
Cochin-16.
4. The Assistant Director(Staff),
O/o the PMG,
Kochi. - Respondents

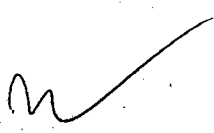
By Advocate Mr C Rajendran, SCGSC

The application having been heard on 3.12.2002 the Tribunal on the same day delivered the following:

O R D E R

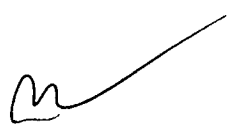
HON'BLE MR A.V.HARIDASAN, VICE CHAIRMAN

The applicant who commenced service as a Stenographger on 10.3.83 in the office of the Deputy Director of Accounts(Postal), Trivandrum, was transferred on her request

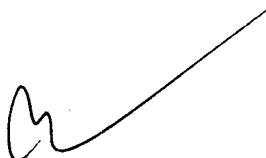


under Rule 38 of the P&T Manual, Vol.IV as Lower Division Clerk in the office of Post Master General, Central Region, Kochi, by order dated 13.12.90. Her grievance is that her request for grant of promotion under the TBOP scheme with effect from 10.3.99 reckoning the service rendered by her as Stenographer has been turned down by the impugned order A-3 on the ground that her Stenographer service from 10.3.83 to 16.12.90 cannot be counted for TBOP. It is alleged in the application that although the applicant may not get the seniority reckoning the service rendered as Stenographer, she is entitled to count the period of service for the purpose of placement in the higher grade under the TBOP as has been held by the Apex Court in Dwijen Chandra Sarkar Vs Union of India [(1999) 2 SCC 119]. Applicant seeks to set aside the impugned order and for a declaration that she is entitled to TBOP from 10.3.99 and for a direction to the 2nd respondent to promote the applicant in the light of the ruling of the Apex Court in Dwijen Chandra Sarkar's case.

2. The respondents resist the claim of the applicant on the ground that the service of the applicant as Stenographer cannot be reckoned for TBOP because TBOP has not been introduced in the Stenographer cadre, that the applicant virtually got reverted to the lower grade and her service from the date on which she commenced service as LDC alone would be counted for the purpose of TBOP and that in terms of what is contained in the letter dated 28.12.94(R1-A) of the Ministry of Communications, service rendered in other departments would not count for placement in the TBOP.



3. We have heard the learned counsel on either side and have perused other material placed on record. The object of introduction of the scheme of TBOP was to ameliorate the conditions of employees who do not acquire financial upgradation or promotion for a long time for paucity of promotional avenues. In this case, the applicant who commenced his service on 10.3.83, though as a Stenographer, got transferred by cadre change as a LDC on 17.12.90 and has never get any promotion or financial upgradation, but has suffered only financial downgradation on the cadre change. To say that because the applicant did not continue in the same scale of pay but stepped down from a higher scale to lower scale, the applicant would not be entitled to the financial upgradation is paradoxical and opposed to the spirit of the TBOP scheme. The Apex Court has in Dwijen Chandra Sarkar's, has held that service rendered in a different department prior to surplusage and redeployed although would not count for seniority, would count for promotion under the TBOP scheme in the Postal Department. In Renu Mullick Vs Union of India [(1994) 1 SCC 373], the Apex Court has held that the service rendered to different department prior to transfer on request would count for eligibility for promotion although would could count for seniority. The same view had taken by the Apex Court in a later ruling in Scientific Advisor to Raksha Mantri Vs V.M.Joseph[1998 SCC (L&S) 1362]. In this case, the applicant who commenced service as a Stenographer in the Postal Department got transferred under Rule 38 to a different wing of the same department belonging to similar basic grade of Group'C'. We therefore find no justification for denial of



the applicant's claim to grant her grade promotion under the TBOP reckoning the service rendered as Stenographer.

4. In the light of what is stated above, we set aside the impugned order, declare that the applicant is entitled to be considered for promotion under the TBOP with effect from 10.3.99 reckoning her service as Stenographer from 10.3.83 to 17.12.90 and direct the respondents to consider her for such promotion with effect from the said date and to give her the consequential benefits. The above direction shall be complied with within three months from the date of receipt of copy of this order. There is no order as to costs.

Dated, the 3rd December, 2002.



T.N.T. NAYAR
ADMINISTRATIVE MEMBER



A.V. HARIDASAN
VICE CHAIRMAN

trs

APPENDIX

Applicant's Annexures:

1. A-1: True copy of the order No.ST/12-TR/90 dated 13.12.1990 from the office of 2nd respondent.
2. A-2: True copy of the representation dated 6.1.2000.
3. A-3: True copy of the order No.ST/'98-28/99 dated 10.2.2000 of 3rd respondent signed by 4th respondent.
4. A-4: True copy of the judgment of the Hon'ble Administrative Tribunal, Ernakulam Bench in OA No.1189/99 dated 22.5.2000.

Respondents' Annexures:

1. R-4A: Photo copy of the order NO.51-14/92-SPB-I dated 28-12-1994 of the Ministry of Communications, New Delhi.
2. R-4B: True photocopy of the Circular No.DG(P&T) letter No.31.26/83-PE.I dated 17.12.1983 issued by the D.G of Posts & Telegraphs.
3. R-4C: A true photocopy of the letter issued by the D.G (Posts) letter No.4-12/88 PE.I (Pt) dated 22.7.1993.

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