

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

O.A.No.147/10

Friday this the 12th day of August 2011

C O R A M :

**HON'BLE Dr.K.B.S.RAJAN, JUDICIAL MEMBER
HON'BLE Ms.K.NOORJEHAN, ADMINISTRATIVE MEMBER**

T.J.Jose,
S/o.Joseph,
Gramin Dak Sevak (GDSBPM),
Cherukattoor Post Office.
Residing at Thoppil House,
Mundakutty PO, Mananthavady, Wayanad – 670 645.Applicant

(By Advocate Mr.M.R.Hariraj)

V e r s u s

1. Union of India represented by the Secretary
to Government, Department of Posts,
Ministry of Communication, New Delhi.
2. Chief Post Master General,
Kerala Circle, Thiruvandrum – 33.
3. Senior Superintendent of Post Offices,
Thalassery Division, Kannur.Respondents

(By Advocate Mr.S.Jamal,ACGSC)

This application having been heard on 12th August 2011 this
Tribunal on the same day delivered the following :-

O R D E R

HON'BLE Dr.K.B.S.RAJAN, JUDICIAL MEMBER

The applicant joined the respondents' organization as Extra
Departmental Delivery Agent (EDDA for short) in 1983 in Mundakutty (of
Thalassery Division) on a consolidated pay and on the introduction of

.2.

TRCA, he was placed in the scale of Rs.1740 – 30 – 2640/- . On his having applied for a transfer, he was transferred to Cherukattoor on 30-11-2007 as GDSMD, vide Annexure A-1. At that time his TRCA was Rs.1980/- in the aforesaid scale.

2. Later on the applicant was appointed as BPM, Cherukattoor which carried a TRCA of Rs.1600 – 40 – 2400/- and his TRCA on the date of his transfer to this place was fixed at the minimum of Rs.1,600/-. And, in 2009 it was fixed at Rs.1640/- after grant of the increment in the aforesaid scale.

3. The TRCA for the post of BPM was revised to Rs.3660 – 70 – 5760/- consequent on implementation of Natarajamoorthy Commission Recommendations w.e.f. 13-12-2007.

4. The grievance of the applicant is that his TRCA drawn prior to his posting at Cherukattoor on 30-11-2007 ought to have been protected by virtue of the decision of this Tribunal in a number of cases such as OA No. 394 of 2003, 740 of 2004, 220/2007 and 148 of 2009. Accordingly, he has prayed for the following reliefs :-

1. *To declare that the applicant is entitled to protection of the TRCA which he was drawing in the higher pay scale when he is transferred to a post of lower TRCA.*

2. *To direct the respondents to fix the pay of the applicant at Rs.1980/- in the scale Rs.1640-40-2400/- with effect from 1.12.2007 and to pay him the difference of pay and allowances due to him with interest at the rate of 18% per annum.*

.3.

5. Respondents have contested the OA. According to them, the applicant had been transferred to Cherukattor on his request on medical grounds under the provisions of Annexure R-1 and there is no provision for protection of the TRCA in the said order. In fact, there is no reduction in the TRCA as alleged by the applicant. The orders of the CAT in OA No. 220/2007 and 148/2009 have been challenged before the High Court. On the basis of Annexure R-3 order of the DG Posts GDS redeployed to other posts on their own specific request are not eligible for protection of TRCA.

6. Counsel for the applicant argued that a full bench of this Tribunal has in OA No.270 of 2006 in detail dealt with the case of TRCA on transfer at request from a higher TRCA to a lower TRCA. The said decision clearly provides for protection of TRCA already drawn, in such cases, albeit in the lower TRCA scale. In the instant case the applicant having drawn TRCA of Rs.1980/- ought to have been placed at Rs.1960 plus Rs 20 as personal pay in the TRCA scale of Rs.1600 – 40 – 2400/-. Admittedly, this was not done. And, w.e.f. December, 2007, on the basis of the recommendations of Natarajamoorthy Commission (referred to above), the TRCA of Rs.3660 – 70 – 5760/- ought to have been extended to the applicant.

7. Counsel for the respondents submitted that the TRCA has been correctly worked out.

.4.

8. Arguments were heard and documents perused. The decision of the Full Bench is as under :-

37. Now, as regards transfer within the same recruitment unit, vide para 4 of D.G. Posts letter No. 19-51/ED. Trg dated 11-02-1997 (supra), it has been made clear that if the placement of the ED Agent is from one Post Office to another within the same recruiting unit, the same will be treated as a transfer and the ED Agents will not forfeit his past service for any purpose. Thus, transfer of a GDS from one post to another within the same recruitment unit will not forfeit his past service for any purpose which include the increments drawn by him in the previous post. It is in such circumstance that this Tribunal allowed the OA 394/2003 (supra) and directed the respondents to restore the TRCA of the applicant. We respectfully affirm the above decision of the Division Bench.

9. Thus, on the date of his transfer as GDSMD at Cherukattoor in November, 1997, the TRCA of the applicant drawn by him earlier i.e. at Rs.1980/- ought to have been protected. In the year of his transfer, if the applicant had been placed at Rs.1600/- as stated by the respondents in their reply, the same calls for modification to maintain the last TRCA drawn in tact. In other words, the TRCA of the applicant ought to have been at Rs.1960/- + Rs.20/- as personal pay in the pays scale of Rs.1600 – 2400/- as GDSMD and the same should have been replaced later on by the new TRCA scale for GDSBP as Rs.3660 – 70 – 5760/- effective from 13-12-2007 while fixing his TRCA

10. Respondents are, therefore, directed to pass suitable orders accordingly and pay the difference in the TRCA of the applicant. No interest is payable on the difference.



.5.

11. The OA is disposed of. No cost.

(Dated this the 12th day of August 2011)


K.NOORJEHAN
ADMINISTRATIVE MEMBER


Dr.K.B.S.RAJAN
JUDICIAL MEMBER

asp