

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

Original Application No. 148 of 2009

Friday, this the 21st day of August, 2009

CORAM:

Hon'ble Mr. George Paracken, Judicial Member

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

N. Sugandhi, GDS BPM,
 Kavalayoor B.O., Thiruvananthapuram
 North Postal Division, Thiruvananthapuram.

Applicant

(By Advocate – Mr. Vishnu S. Chempazhanthiyil)

V e r s u s

1. The Senior Superintendent of Post Offices,
 Thiruvananthapuram North Postal Division,
 Thiruvananthapuram.
2. Union of India, represented by Chief Post
 Master General, Kerala Circle,
 Thiruvananthapuram.

Respondents

(By Advocate – Mr. TPM Ibrahim Khan, SCGSC)

The application having been heard on 21.8.2009, the Tribunal on the same day delivered the following:

O R D E R

By Hon'ble Mr. George Paracken, Judicial Member -

The applicant was working as GDS (Stamp Vendor) at Vakkom Sub Post Office under the first respondent with effect from 25.2.1982 in the TRCA of Rs. 1740-30-2640/- . Consequent upon the abolition of that post she was posted as GDSMD, Vennicode in the same TRCA of Rs. 1740-30-2640/- vide Annexure A-1 letter dated 15.2.2005. Applicant has expressed her inability to join that post because of her physical conditions and requested for an alternative posting. The respondents have considered her request and



posted her as GDSBPM, Kavalayur in the TRCA of Rs. 1600-40-2400/- vide memo dated 1.6.2005. The grievance of the applicant is that while she was drawing an allowance of Rs. 1920/- plus DA (total Rs. 3211/-) in the TRCA of Rs. 1740-30-2,640/- while working as GDSSV, Vakkom her pay has been reduced to Rs. 1600/- plus DA (total Rs. 2732/-) which is the minimum of the TRCA of Rs. 1600-40-2400/. Thus difference in allowance was Rs. 479/- per month.

2. Aggrieved by the aforesaid reduction in her allowance drawn by her as GDS (Stamp Vendor) at Vakkom, she made the Annexure A-4 representation to the second respondent, namely, Chief Post Master General, Kerala Circle, Trivandrum. According to the applicant the said representation has not been considered by the respondents so far. The applicant has submitted that her case is fully covered by the earlier orders of this Tribunal at Annexure A-5 dated 22.11.2005 in OA No. 394 of 2003 - K.P. Pyari Vs. Senior Superintendent of Post Offices & Anr., Annexure A-6 dated 19.10.2006 in OA No. 704 of 2004 - A. Prakasan Vs. Superintendent of Post Offices & Ors. and Annexure A-7 dated 10.10.2007 in OA No. 220 of 2007 - M. Sethumadhavan Vs. The Superintendent of Post Offices.

3. In the reply statement, the learned counsel for the respondents has submitted that when the post of GDS (SV) at Vakkom was abolished vide Annexure A-1 letter dated 15.2.2005, the respondents gave the post of GDSMD, Vennicode to the applicant which was in the same TRCA of Rs.

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1740-30-2640/-, but she refused to accept it and on her own request, she was given the post of GDSBPM, Kavalayur in the lower TRCA of Rs. 1600-40-2400/- vide memo dated 1.6.2005. Hence, the applicant cannot legitimately claim for protection of the basic allowances she was drawing in the higher TRCA.

4. We have heard learned counsel for the applicant Mr. Vishnu S. Chempazhanthiyil and learned counsel for the respondents Ms. Asha Elizabeth Mathew for Mr. TPM Ibrahim Khan, SCGSC. It is a well settled principle of law that a person's pay cannot be reduced unless it is by way of punishment. It is true that the respondents have accommodated her in a post carrying the same TRCA while she was posted as GDSMD, Vennicode. But, when the respondents themselves have considered her request for another suitable posting as GDSBPM, Kavalayur, there was no reasons for not protecting the basic allowance which she was drawing in the higher TRCA of Rs. 1740-30-2640/-. This Tribunal has been consistently taking view that when a GDS is transferred from a post carrying a higher TRCA to another post with lower TRCA, the pay has to be protected in the lower TRCA. We, therefore, agree with the learned counsel for the applicant that the applicant's case is covered by the earlier judgments of this Tribunal at Annexure A-5, A-6 and A-7 (supra). The operative part of the order of this Tribunal in O.A.No.704/04 (supra) is



relevant and it is reproduced hereunder :-

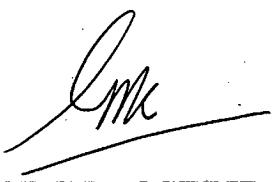
"4. The Apex Court in the case of Inderpal Yadav V/s. Union of India (1985(2) SCC 648) was considering the case of Railway Employees who were substantively holding Group 'D' post working for a long period on Group 'C' post and it was held that though those Railway Servants were not entitled for regularisation in the Group 'C' post but were but were entitled to protection of pay last drawn by them even after repatriation to Group 'D' post. Though the applicant in the present case is not identically placed, the above principle laid down by the Apex Court shall apply here also. Though the applicant is not entitled to continue to get the higher pay scale attached to the EDDA, yet he cannot be denied protection of pay in the lower scale attached to the post of EDBPM. That is what is stated by this Tribunal in the order in OA 941/2001 dated 1/3/2004 (Annexure A-3) also. The applicant in that case was an EDMC at Kalliyal falling within the Thiruvananthapuram South Division on Time Related Continuity Allowance in the scale of Rs. 1545-25-2020. He sought a transfer as EDDA at Paruthippally and took over charge there as EDDA w.e.f. 6/9/2000. His TRCA was fixed in the scale of Rs. 1740-30-2640 and he was drawing a monthly TRCA of Rs. 2488/- . While so, the applicant's TRCA was reduced to Rs. 1998/- with retrospective effect from 6/9/2000 in the scale of Rs. 1375-25-2125. This Tribunal while allowing the OA held that the applicant as EDDA would be entitled to the TRCA in the appropriate scale attached to the post of EDDA, namely, Rs. 1375-25-2125 without ignoring the increments already drawn by him in his earlier post as EDMC, Kalliyal. In other words, the applicant's past service was to be taken into account for the purpose if fixing the TRCA in the appropriate scale of EDDA and accordingly the respondents were directed to refix the applicant's TRCA w.e.f. 6/9/2000 in the appropriate scale of Rs. 1375-25-2125 reckoning the applicant's past service prior to his transfer to the post of EDDA at Pauthipally. The recruiting units of the two posts have no relevance in the matter for granting the monthly TRCA.

5. In the above view of the matter, the OA is allowed and we direct the respondents to refix the TRCA of the applicant in the scale of Rs. 1600-40-2400 after taking into account the increments drawn by him in the scale of pay of Rs. 1740-20-2640 and duly protecting his last pay drawn. The above direction shall be complied with within three months from the date of receipt of copy of this order. There shall be no order as to costs."

5. In the above facts and circumstances of the case, we allow this OA and direct the respondents to protect the basic allowances of the applicant last drawn by her against the post of GDS (Stamp Vendor) at Vakkom Sub Post



Office in the TRCA of Rs. 1740-30-2640/- on her transfer to Kavalayur as GDSBPM, in the TRCA of Rs. 1600-40-2400/-. The above direction shall be complied with within a period of two months from the date of receipt of a copy of this order. There shall be no order as to costs.



(K. GEORGE JOSEPH)
ADMINISTRATIVE MEMBER



(GEORGE PARACKEN)
JUDICIAL MEMBER

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