

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A. NO. 151/2010

Dated this the 28th day of March, 2012

C O R A M

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

HON'BLE Mrs.K.NOORJEHAN, ADMINISTRATIVE MEMBER

- 1 Lakshmanan S, S/o K.Sankara Raman, R/o TC 43/491 (42)
 Thrimurthy Nagar, Muttathara, Vallakkadavu P.O, Trivandrum
 Social Security Assistant, EPFO, Sub Regional Office, Kollam.
- 2 Vinod Kumar. B.K, S/o. Balakrishna Pillai, Qrs. No. 105,
 EPF Staff Quarters, Pattom, Thiruvananthapuram,
 Social Security Assistant, Employees Provident Fund Organization
 Sub Regional Office, Kollam.
- 3 Anil Kumar G., S/o. Gopinatha Pillai, Arun Nivas,
 Arunoottimangalam, Mangad (P.O), Kollam Social Security
 Assistant, Employees Provident Fund Organization,
 Old Municipal Building, Chinnakkada, Kollam.
- 4 Sunilkumar S, S/o. Sadasivan Nair, Sreerangam, TC 5/951
 Peroorkada, Thiruvananthapuram, Social Security Assistant,
 Employees Provident Fund Organization
 Sub Regional Office, Kollam.
- 5 Harishankar G., S/o. Ganeshan, 'Hari Ragh', CNRA 14,
 Chithra Nagar, Pattom Palace (P.O), Thiruvananthapuram
 Social Security Assistant, Employees Provident Fund Organization
 Sub Regional Office, Kollam.
- 6 Vinoj A.R., S/o. Ambujakshan, Cherusseril House,
 Vattathukavala, Puthuppally (P.O), Kottayam
 Social Security Assistant, Employees Provident Fund Organization
 Sub Regional Office, Chalakuzhy Building, Near CMS College,
 Kottayam.

- 7 Suresh S.K., S/o late Krishna Moorthy, "Sukruthi"
Union Club Road, Kottayam, Social Security Assistant,
Employees Provident Fund Organization,
Sub Regional Office, Chalakuzhy Building,
Near CMS College, Kottayam.
- 8 Subramannian L.S. , S/o. Sankara Warriar, 'Sastha Varoua'
Kidangoor (P.O), Kottayam, Social Security Assistant,
Employees Provident Fund Organization,
Sub Regional Office, Chalakuzhy Building,
Near CMS College, Kottayam.
- 9 Jayakumar P.K, S/o. Kesavan Nair, Nandanam House,
Vadavathoor (P.O), Kottayam., Social Security Assistant,
Employees Provident Fund Organization,
Sub Regional Office, Chalakuzhy Building,
Near CMS College, Kottayam.
- 10 Deepa Somasekharan, D/o. Somasekharan Nair
TC 5/2138 (1), 'Vaishnavi', Kakkode, Kowdiar
Thiruvananthapuram, Social Security Assistant,
Employees Provident Fund Organization,
Sub Regional Office, Kollam.
- 11 Sunilkumar K.R, S/o. Ramakrishnan Nair,
Kizhakkathu, T.P. Puram (P.O), Vazhoor, Kottayam,
Social Security Assistant, Employees Provident Fund
Organization, Sub Regional Office, Chalakuzhy Building,
Near CMS College, Kottayam.
- 12 Latha V, D/o. Sadasivan Nair, PF Quarters No. 151,
Pattom (P.O), Thiruvananthapuram, Social Security Assistant,
Employees Provident Fund Organization,
Sub Regional Office, Kollam.
- 13 S. Venugopalan Nair, S/o. Sreedharan Nair,
Kailasam, Valiyavila, Mulloor (P.O), Thiruvananthapuram
Social Security Assistant, Employees Provident Fund
Organization, Sub Regional Office, Kollam.
- 14 N. Sasidharan Nair, S/o. Neelakantan Pillai,
Sreelakshmi, Vattavila, Thirumala (P.O),
Thiruvananthapuram, Social Security Assistant,
Employees Provident Fund Organization,
Sub Regional Office, Kollam.

- 15 Ajitha S. Kumar, D/o. Kuttappan Nair
Thekkineth House, Poyyachira, near Press Academy
Kakkanad, Social Security Assistant,
O/o. The Regional Provident Fund Commissioner,
Sub Regional Office, Kochi - 682 017.
- 16 Jayasree V., D/o. Viswanatha Pillai
'Gopiratna', Mahesh Nagar, Vadakkekotta
Thrippunithura, Ernakulam, Social Security Assistant,
O/o. The Regional Provident Fund Commissioner,
Sub Regional Office, Kochi - 682 017. Applicants

(By Advocate Mr. P.Ramakrishnan)

Vs.

- 1 Employees Provident Fund Organisation, Bhavishyanidhi
Bhavan 14, Bhikaji Cama Place, New Delhi-1, represented
by the Central Provident Fund Commissioner.
- 2 The Regional Provident Fund Commissioner-1,
Employees Provident Fund Organisation Regional Office,
Bhavishyanidhi Bhavan, Pattom, Thiruvananthapuram.
- 3 The Regional Provident Fund Commissioner-II,
Sub Regional Office, Old Municipal Office Building, Kollam.
- 4 The Regional Provident Fund Commissioner-II,
Sub Regional Office, Chalakkuzhy Building, CMS College
Road, Kottayam-1.
- 5 The Regional Provident Fund Commissioner-II,
Employees Provident Fund Organisation Sub Regional
Office, Kochi-17.

Respondents

(By Mr.N.N.Suganapalan Sr. & Mr.S.Sujin, Advocates)

The O. A having been heard on 19 .3.2012 the Tribunal delivered
the following:

ORDER

HON'BLE MRS. K. NOORJEHAN, ADMINISTRATIVE MEMBER

The applicants who are Social Security Assistants working in various offices of the respondent's department are aggrieved by non-grant of Time Bound Promotion.

2 Brief facts of the case as stated by the applicants are that the post of Social Security Assistant (SSA for short) in the respondent's department was originally designated as Upper Division Clerk. The respondent's department introduced Time Bound Promotion (TBP) Scheme w.e.f 1.1.1992. It is stated that under this Scheme the UDCs who have completed 17 years in the clerical service were eligible to be placed in the next higher grade UDC (Selection Grade) on nonfunctional basis (Annx.A1 & A2 refers). While so the UDC were re-designated as SSA, Assistants as Sr.SSA, UDC(SG) as Sr.SSA(TBP). It is averred by the applicants that a number of UDCs in the EPF Organisation, are those who, took inter departmental transfer. It is stated that the service rendered by such UDCs in their parent department was not reckoned for upgradation under TBP Scheme. Consequent to the order of the Madras Bench of the Tribunal the service rendered in the parent department was reckoned for financial upgradation under TBP Scheme. They further stated that The Central Board of Trustees of the respondent's department in their Board meeting on 24.9.2007 decided revision of pay scales w.e.f 1.4.2004, Accordingly Annx.A5 was issued and the scale of pay of SSA was fixed as Rs.4000-6000 for first 4 years and thereafter at Rs.4500-7000. There was no revision in the scale of pay of Rs.5000-8000 applicable Sr.SSA or Sr.SSA(TBP) but 60% of combined strength of SSA and Sr.SSA posts are to replace the TBPS as on 1.4.2004. It is submitted that the applicants have completed 17 years of service on various dates after Annx.A5 order came into force. The applicants who are SSAs submitted their applications for grant of TBP as SSA(TBP). In response to their application by letter dated 25.5.2009 the 3rd



respondent informed that TBP Scheme stands abolished w.e.f 8.10.2007 therefore after the said date such benefits can not be extended. They alleged that the Central Board of Trustees of the respondent's department did not take any decision to discontinue the TBP Scheme, the revision of pay was in furtherance to an earlier decision and the employees in other Regions were granted with TBP. To support their contention they have produced Annx.A9. They further alleged that they had come on inter-departmental transfer while in the cadre of LDCs and have completed 17 years service after 8.10.2007 Those who are junior to the applicants were granted the grade pay of Rs.4200/- in pay band 2 reckoning their earlier service. Therefore a number of juniors are Sr.SSA(TBP) and are drawing higher pay. By this O.A they challenge the cut off date of 8.10.2007 as discriminatory and unconstitutional.

3 In their reply the respondents submitted that due to stagnation in the cadre of UDC TBP Scheme was introduced in 1992. As per this Scheme UDCs with 17 years clerical service were entitled for the pay scale of Rs.1400-2300 on nonfunctional basis. They admitted that in compliance to the orders of the Tribunal the benefit of previous service rendered in other Central Govt department prior to the employees joining the respondent's department was allowed to be reckoned for TBP. Grant of TBP to such persons was purely personal considering their length of combined uninterrupted service notwithstanding their seniority position in UDC cadre. Therefore, length of service was the only criterion for TBP.

4 Consequent upon the redesignation of UDC as SSA, the nomenclature of UDC(SG) was changed to Sr.SSA(TBP). Due to issuance of Annx.A5 the revised scales were applicable from 1.4.2004 notionally with monetary benefits from 1.9.2007. Thus an upgraded scale of Rs.4500-7000 was introduced to SSA with 4 years of regular service. Further, a higher pay scale of 5000-8000 equivalent to the TBP scale to the SSA completing 4 years in the scale of Rs.4500-7000. For this purpose 60% of the total

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sanctioned strength of SSA and Sr.SSA was kept in the Sr.SSA grade replacing the TBPS. Therefore a new entrant as SSA is given the first higher pay scale on completion of 4 years of service and the next level higher pay scale after 4 more years if there is Sr.SSA post within the 60%. In the earlier scheme one has to wait for 17 years to be eligible for next higher scale. They submitted that the applicants were extended the benefit of Annx.A5. They reiterated that the revised scale of Rs.5000-8000 was granted to 60% of combined strength of SSA and Sr.SSA replacing the existing TBPS w.e.f 1.4.2004. It is submitted that the Govt of India by order dated 30.4.2009 (Annx.R5) has granted approval for continuation of TBP scale from 1.4.2004 to only those Time Bound Promotees who were promoted upto 31.3.2004 treating them distinctly and all time bound promotees from 1.4.2004 will be governed as per the restructured pay scale of SSA/Sr.SSA. They admitted that the applicants had completed 17 years of combined service on various dates from 30.1.2008 but the TBPS was withdrawn from 8.10.2007 and hence the applicants are not eligible for TBP. They submitted that in Annx.A5 order it was clearly stated that the revised scale is granted to Sr.SSA replacing the then TBPS. They further submitted that if any ineligible benefit is granted in another Region due to wrong interpretation of guidelines this can be corrected and cannot be a precedent to such benefit. With regards to the juniors referred to by the applicant, in view of their length of service which was more than that of the applicants TBPS was granted as TBP Scheme was existence.

5 The applicant filed rejoinder to the reply filed by the respondents and averred that the revision of pay scale introduced w.e.f 1.4.2007 is not at all beneficial to the applicant as compared to TBP Scheme. It is further stated that By Annx.A5 the applicants are given scale of pay Rs.4500-7000 whereas their juniors are given scale of pay of Rs.5000-8000 on completion of 17 years under TBP Scheme. After implementing the revision of pay scale from 1.4.2004 the respondent department is treating those who got TBP

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distinctly. Regarding discontinuance of TBP scheme, no separate communication was issued, only mention was made that the creation of Sr.SSA post in the scale of Rs.5000-8000, replaces TBPS.

6 Additional reply was filed controverting the contention raised in the rejoinder. The respondents submitted that the number of Sr.SSA post sanctioned to each region and guidelines to fill the post on the basis of seniority cum fitness was circulated vide Annx.R6..

7 Heard the learned counsel for the parties and perused the record.

8 The undisputed fact which emerges from the foregoing is that the respondents introduced TBPS in 1992 which was replaced by Annx.A5 time bound promotion policy in 2004. The counsel for the applicant strenuously argued to point out that the respondents failed to issue an OM indicating the withdrawal of TBPS and that they did not obtain the formal approval of the Chairman of the Board before implementing the new promotion policy in 2007.

9 The respondents introduced a Time Bound Promotion viz TBPS at the level of UDCs with a view to prevent stagnation in promotion. Therefore, UDCs with 17 years clerical service were granted TBPS and designated as UDC (Selection Grade). UDC-SG post carried the pre-revised pay scale of Rs.5000-8000.

10 The respondents attempted a re-structuring in EPFO in line with re-structuring done in other Central Govt departments like CBDT, organised Accounts Department, etc. The entry level post was made as SSA by re-designating the post of UDC. The existing LDCs were given promotion to UDC on qualifying the computer skill test. Those LDCs above 45 years of age who could not pass the skill test on computer application were given exemption. In effect LDCs were promoted to UDCs and all of them were placed in the entry grade post of SSA. This redesignation of UDC as SSA and UDC(SG) as SSA(TBP) was approved by the Central Board of Trustees and communicated to all on 25.3.04 and clarification on implementation

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issued vide Annx.R2.

11 The Central Board of Trustees of EPF in its 179th meeting held on 24.09.2007 approved a proposal for determination of pay scales of SSA, Sr. SSA, Section Supervisor, further promotion to each grade, etc. The decision of the Central Board of Trustees and that the Chairman was conveyed to all concerned on 15.11.2007 (Annx.A-5). The salient feature of the new promotion policy as outlined at Annx.A5 is given below:

<i>Post</i>	<i>Existing scales</i>	<i>Revised Scales</i>	<i>Applicability</i>
SSA (first four years)	4000-100-6000	4000-100-6000 (4 years)	To be held until 4 years of regular service and placed in the time scale of Rs. 4500-125-7000.
SSA (on completion of 4 years of regular service)		4500-125-7000	
Sr. SSA	5000-150-8000	5000-150-8000	60% of the total combined (sanctioned) strength of SSA and Sr. SSA inclusive replacing the present TBPS. The number of posts in this scale will be specified from time to time corresponding to this percentage. Placement on promotion to the scale against 60% vacancy determined in each region.
Section Supervisor	5000-150-8000	5500-175-9000	The existing incumbents will be placed in the upgraded scale.
EO/AAO	5500-175-9000	6500-200-10500	The existing incumbents will be placed in the upgraded scale.

According to the respondents, the promotional prospects of the SSA in Annx.A5 policy is far better as compared to that which existed under the TBPS. Here the SSA with 4 years of service in the grade is given an enhanced pre-revised scale of Rs.4500-7000 and on completion of further 4 years in that pay scale he is promoted to Sr.SSA carrying the pay scale Rs.5000-8000 which is equivalent to the former pay scale attached to TBPS. 60% of the sanctioned strength of SSA and Sr.SSA was kept in the Sr.SSA grade for the purpose of replacing the 1992 TBPS. Therefore, according to the respondents, SSA with 8 years of service gets the pay scale of erstwhile TBPS while as a UDC he had to complete 17 years of clerical service.

12 The respondents have taken a stand that the replacement of TBPS by Annx.A5 promotion policy was mentioned against the post of Sr.SSA in the tabulation given above. Therefore, according to them, there was no need to issue another OM on the same issue.

13 The applicants have put forward their contention that their juniors in the seniority list of SSA were granted TBPS which was declined in their case. This might have happened in the case of inter departmental transferees to EPFO who as per the rules will take bottom seniority even though their seniors may have lesser length of service. As a result of judicial pronouncements, the service in the former department of those who came on inter-department transfer to EPFO was permitted to be counted for the purpose of TBPS. Under such circumstances, TBPS was granted to such juniors since eligibility for the same is considered only with reference to the service of 17 years. TBPS is a mere financial upgradation and it was purely personal to them. The applicants have not completed 17 years of service before 08.10.2007 by which time the new promotion policy was implemented without affecting any one's seniority.

14 Since Annexure A-5, the new promotion policy was issued on 15.11.2007, the TBP was granted to all those SSAs, who have completed 17 years before 08.10.2007. With the issuance of Annexure A-5 dated 15.11.2007 the TBPS was replaced by granting the pay scale attached to the former UDC(SG) to the post of Sr. SSA. The first respondent issued Annexure R-4 clarification dated 04.07.2008 wherein, against Col. 5, it was noted that "consequent to restructuring of the SSA grade, TBP has no application". However, the benefits allowed from 01.04.2004 to 08.10.2007 would be adjusted against the 60% posts in the scale of Rs. 5000-8000. TBPS is discontinued in EPF w.e.f. 08.10.2007. The applicant-1 has taken up the contention vide Annexure A-6 that he alone among others in Annx.A6, was not granted TBP while 6 others, who were transferred to EPFO later than him were given TBP. It is seen from the dates furnished against other

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6 officials that they were all granted the TBP on various dates between 21.10.2005 to 18.07.2007 as shown in para 12 supra. They were granted the TBP because they completed 17 years in the SSA grade before Annexure R-4 clarification was issued, wherein the cut off date of discontinuance of TBPS was given as 08.10.2007. The applicants has completed 17 years of clerical service, at UDC level only on 31.1.2008.

15 The applicants produced an office order permitting TBP for one official by the Regional Office, Chennai on 18.01.2008, the respondents have submitted that it would have been a mistake since Annexure R-4 clarification regarding cut off date was received by the regions on 04.07.2008. Hence this mistake might have been rectified later.

16 The respondents submitted that all the applicants except at Sl. No. 9 and 14 were beneficiaries of the financial upgradation given on completion on four years in the enhanced pre-replaced scale Rs. 4500-7000. Further, applicants 4, 6, 16 have already been placed in the higher post of Sr.SSA which carries the pre-revised scales of Rs. 5000-8000 under TBP w.e.f. 29.12.2010 vide Annexure R-10.

17 DOPT while introducing ACP for Government civilian employees vide O.M No. 35034/1/97-Estt. (D) dated 09.08.1999 has enumerated the conditions for grant of benefits under the ACP scheme in Annexure A-1 to the O.M. In condition 13, it is clearly stated that existing time bound promotion cannot run concurrently with ACP. The Ministry has to choose one scheme either the existing TBP or ACP. In this case, the respondents have replaced the 1992 TBPS with another scheme whereby SSA gets his first TBP on completion of four years and the next one at Sr.SSA grade on completing 8 years as SSA but subject to availability of Sr. SSA post. Therefore, in our considered opinion, the respondents cannot be faulted for not conceding to the request of the applicants, for not granting TBPS under the 1992 scheme which stands discontinued w.e.f 08.10.2007, on introduction of the new scheme.

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18 In view of the foregoing the O.A lacks merit and is accordingly dismissed. No costs.

Dated March 26, 2012


(K.Noorjehan)
Administrative Member


Dr.K.B.S.Rajan
Judicial Member

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