

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

O.A. NO. 172 OF 2009

Wednesday, this the 13th day of January, 2010.

CORAM:

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

R.V. Biju Kumar,
GDS MD, Pallipuram P.O.,
Thiruvananthapuram – 695 316.

... **Applicant**

(By Advocate Mr. Vishnu S. Chempazhanthiyil)

versus

1. The Senior Superintendent of Post Offices,
Thiruvananthapuram North Postal Division,
Thiruvananthapuram – 695 033.

2. Union of India represented by the
Chief Postmaster General,
Kerala Postal Circle,
Thiruvananthapuram. ...

Respondents

(By Advocate Mr. Varghese P. Thomas, ACGSC)

The application having been heard on 13.01.2010, the Tribunal on the same day delivered the following:

ORDER

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

The applicant was earlier working as GDS Messenger in Pallipuram Post Office and consequent to abolition of that post, he was posted as GDS MD in the same Post Office. Thereafter, he was posted as GDS MP in the said office. The TRCA attached to various posts is as under :-

(a)	As GDS Messenger	-	Rs.1545 – 2020.
(b)	As GDS MD	-	Rs.1740 – 2640.
(c)	As GDS MP	-	Rs. 1220 – 1600.



2. At the time when the applicant was posted out of Pallipuram, he was drawing Rs.1570 in the aforesaid TRCA of Rs.1545 – 2020. Later on for that limited period that the applicant was posted as GDS MD, he was afforded the minimum of TRCA attached to the post, i.e., Rs.1740/- . However, when the applicant was posted as GDS MP, his TRCA was reduced to Rs.1220/- with a minimum of TRCA Rs.1220 – 1600. The applicant through this O.A. has prayed for protection of his pay consequent to his transfer to the post of GDS MP, Pallipuram. For this purpose he was relied upon Annexure A4 order dated 10.10.2007 in O.A. 220/2007 and another order dated 19.10.2006 in O.A. No.704/2004.

3. Respondents have contested the O.A. According to them, after the applicant was posted as GDS MD which carries TRCA of Rs.1740 – 2640, due to some personal reasons he made a request for transfer as GDS MP which carries lower TRCA of Rs.1220 – 1600. After processing this case, when he was so appointed, it was by mistake that his TRCA of Rs.1740/- was protected though he was actually working in the lower TRCA of Rs.1220 – 1600. On locating the above inadvertent error, the applicant's TRCA was revised to Rs.1220/- as per directions contained in Ministry of Communication's letter No.14-16/2001/PAP(Pt) dated 11.10.2004. The applicant is not entitled to any higher TRCA or any TRCA which goes beyond the maximum of TRCA admissible to the post held by him.

4. Applicant has filed the rejoinder reiterating the contentions and also adding a copy of the order dated 21.08.2009 in O.A. No. 148/2009.



5. Counsel for the applicant submitted that the issue involved is no longer *res-integra*. According to the Full Bench decision, the TRCA admissible on transfer is as under :-

49. Now, the entire situation would be summarised and references duly answered as under:-

- (a) As per the rules themselves, in so far as transfer within recruitment unit and in the same post with identical TRCA, there shall be no depletion in the quantum of TRCA drawn by the transferred individual.
- (b) In so far as transfer from one post to the same Post with Diff. TRCA and within the Same Recruitment Unit, administrative instructions provide for protection of the same vide order dated 11th October, 2004, subject only to the maximum of the TRCA in the transferred unit (i.e. maximum in the lower TRCA).
- (c) In so far as transfer from one post to a Different Post but with same TRCA and within the same Recruitment Unit, as in the case of (a) above, protection of TRCA is admissible.
- (d) In respect of transfer from one post to another within the same recruitment unit but with different TRCA (i.e. from higher to lower), pay protection on the same lines as in respect of (b) above would be available.
- (e) In so far as transfer from a post carrying lower TRCA to the same category or another category, but carrying higher TRCA, the very transfer itself is not permissible as held by the High Court in the case of Senior Superintendent of Post Offices vs. Raji Mol, 2004 (1) KLT 183. Such induction should be as a fresh recruitment. For, in so far as appointment to the post of GDS is concerned, the practice is that it is a sort of local recruitment with certain conditions of being in a position to arrange for some accommodation to run the office and with certain income from other sources and if an individual from one recruitment unit to another is shifted his move would result in a vacancy in his parent Recruitment Unit and the beneficiary of that vacancy would be only a local person of that area and not any one who is in the

other recruitment unit. Thus, when one individual seeks transfer from one post to another (in the same category or other category) from one Recruitment Unit to another, he has to compete with others who apply for the same and in case of selection, he shall have to be treated as a fresh hand and the price he pays for the same would be to lose protection of his TRCA.

6. Arguments were heard and documents perused.
7. According to the applicant, his case falls under 49 (d) above. Respondents have not denied the fact of existence of aforesaid Full Bench decision. The applicant's move to Pallipuram was on account of abolition of the post of GDS Messenger held by him earlier. He was, therefore, considered for an alternative post of GDS MD which carries higher TRCA that is admissible for GDS Messenger. For the work done by him as GDS MD, the applicant was paid higher TRCA. However, later on after a very short period when he made a request for accommodating him as GDS MP, his request was acceded to and he was placed in the TRCA of Rs.1220 – 1600. This is lower than the TRCA admissible to GDS MD and the lowest among the three TRCAs (as admissible for GDS Messenger, GDS Mail Deliverer and GDS MP). The Rules provide for the protection of TRCA and following the Full Bench decision cited by the applicant, his entitlement to the pay protection will be restricted to the protection of TRCA at Rs.1570/- in the TRCA scale of Rs.1220 – 1600. The applicant cannot claim any TRCA which goes beyond the maximum of the TRCA attached to the post he holds.
8. In view of the above, this O.A. is disposed of with a direction to the respondents to fix the applicant's TRCA at Rs.1570/- in the scale of Rs.1220 – 1600 from the date the applicant was holding the post of GDS MP.

He would be entitled to further increments in the said TRCA as per Rules. This order shall be carried out within a period of two months from the date of communication of this order.

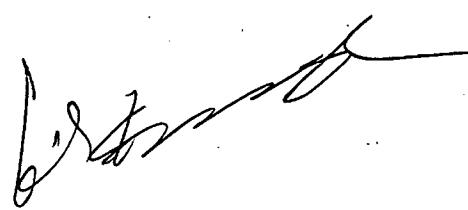
9. There shall be no order as to costs.

(Dated, the 13th January, 2010.)

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K.NOORJEHAN
ADMINISTRATIVE MEMBER

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Dr.K.B.S.RAJAN
JUDICIAL MEMBER