

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

Original Application No.243/2013

Wednesday this the *10th* day of February 2016

C O R A M :

HON'BLE Mr.JUSTICE N.K.BALAKRISHNAN, JUDICIAL MEMBER
HON'BLE Mrs.P.GOPINATH, ADMINISTRATIVE MEMBER

1. V.Abdul Kareem,
S/o.Moidu Haji,
Postal Assistant,
Vadakkara HO.
Residing at Valavil House,
Cherandathur – 673 541.
2. Baburaj Thayyullathil,
S/o.Kanaran,
Postal Assistant,
Nadapuram, Vadakara.
Residing at Thayyullathil,
Perode – 673 504.
3. Sukumaran K.N.,
S/o.Koran,
Postal Assistant,
Tuneri P.O. - 676 505.
Residing at Kallunirayio House,
Kallunira P.O., Valayam – 673 517.
4. Babu Puthanpurayil,
S/o.Kunhiraman Nambiar,
Postal Assistant, Koyilandy HO – 673 505.
Residing at Thattankandy House,
PO Kuttoth, Meppayyur – 673 524.
5. K.R.Vasanth,
W/o.K.V.Krishnan,
Postal Assistant, Chundale SO.
Residing at Anjaly House,
Karimkutty P.O.,
Kalpetta North, Wayanad – 673 122.



6. Thankappan V.R.,
S/o.Ravunni,
Postal Assistant, Alathur HO.
Residing at Vadakkinath,
Chervalam – 678 572.
7. N.Suseela Devi,
W/o.K.P.Sivarajan,
Postal Assistant, Kollam HO.
Residing at Paras Neeravil,
Perinad P.O., Kollam District – 691 601.
8. Shibi Immanuel,
W/o.Joshi,
Postal Assistant,
Vazhakulam, Moovattupuzha.
Residing at Thachiledath,
Vadacode – 686 670.

...Applicants

(By Advocate Mr.V.Sajith Kumar)

V e r s u s

1. Union of India represented by Secretary to Government,
Department of Posts, Government of India,
New Delhi – 110 001.
2. The Chief Postmaster General,
Kerala Circle, Trivandrum – 695 001.
3. The Superintendent of Post Office,
Vadakara Division, Vadakara – 673 101.
4. The Senior Superintendent of Post Office,
Calicut Division, Calicut, Vadakara – 673 001.
5. The Superintendent of Post Office,
Palakkad Division, Palakkad – 678 001.
6. The Superintendent of Post Office,
Aluva – 683 101.
7. The Senior Superintendent of Post Office,
Kollam – 691 001.

...Respondents

(By Advocate Mr.M.K.Padmanabhan Nair)



This application having been heard on 13th January 2016 this Tribunal on ...^{10th} February 2016 delivered the following :

ORDER

HON'BLE Mrs.P.GOPINATH, ADMINISTRATIVE MEMBER

The applicants in this O.A contend that there was an anomaly in the fixation of pay between promoted Postal Assistants and direct recruit Postal Assistant after the implementation of VIth Central Pay Commission report. Employees in the Postman cadre prior to 1.1.2006 on promotion to the cadre of Postal Assistants were fixed with a pay less than those directly recruited. Applicants cite the example of Smt.Anupma who got higher basic pay on her direct recruitment to the service. The Postal Assistants recruited through various divisions in the State, will all be placed in a Circle Gradation List wherein seniority is fixed based on the date of entry into service. The next normal line of promotion to a Postal Assistant is placement to LSG based on length of service. Postal Assistants directly recruited and promoted from the feeder category are having same duties and responsibilities. Both of them will be included in the circle gradation list for being considered for LSG based on seniority. There is no justification in denying the basic pay applicable to the direct recruits to those appointed from the feeder category. Applicants in support of their case cited Apex Court judgment in **Noida Enterprises Association Vs. Noida Authority 2009 (1) SCC (L&S) 672**. Similar view was taken by the Principal Bench of the Tribunal in O.A.No.164/2009 by its order dated 19.2.2009. Relief sought by applicant is to direct the respondents to grant stepping up of pay



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to the applicants with that of direct recruit junior Postal Assistants with effect from the date of entry into the Postal Assistant cadre and grant all consequential benefits. Alternatively, direct the respondents to fix the pay of the applicants on appointment by promotion to the post of Postal Assistant by fixing the pay at the prescribed minimum of the entry pay as prescribed for the direct recruit Postal Assistants in the revised pay rules and grant consequential benefits.

2. Respondents in their reply contend that the 1st applicant in the O.A is now working as Postal Assistant, Nut Street SO in Vadakara Division. The applicant was appointed as Postman on 14.3.2003. He was appointed as Postal Assistant with effect from 21.1.2007. The 2nd applicant in the O.A is working as Postal Assistant, Nadapuram SO in Vadakara Division. The applicant was appointed as Postman on 4.12.1997 and as Postal Assistant on 21.7.2007. These applicants claim stepping up of pay on par with direct recruit junior Smt.Anupama.R. It is further submitted that the increments of Smt.Anupama were not finalized due to the dispute whether induction training period should be reckoned for the purpose. Hence, the claim of the applicant remains unsettled. The 3rd applicant in the O.A was appointed as Postman with effect from 29.1.2004 and promoted as Postal Assistant with effect from 31.12.2007. The 4th applicant was appointed as Postman with effect from 28.1.2004 and promoted as Postal Assistant from 31.12.2007. Both the applicants claim stepping up of pay on par with direct recruit



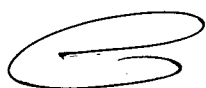
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junior, Kum.Nivea Raveendran. The service particulars of Shri.K.N.Sukumaran, Shri.Babu Puthanpurayil and the direct recruit junior to the applicant (Kum.Nivea Raveendran) are furnished below :

Name of the official	Date of entry in Postman cadre	Date of entry in PA cadre	Basic pay on the date of entry in the PA cadre	Position in the Divisional Gradation List as on 1.7.2011
Shri.K.N.Sukumaran	29/01/04	31/12/07	9260/-	130
Shri.Babu Puthanpurayil	28/01/04	31/12/07	9260/-	129
Kum.Nivea Raveendran		31/12/07	9910/-	125

3. Kum.Nivea Raveendran was selected against 2005 vacancy while the applicants were selected against the 2007 vacancy. Hence, Kum.Nivea Raveendran is a senior in the gradation list. Hence, the applicants' averment that a junior is drawing more pay is not substantiated. The 5th applicant in the O.A Smt.K.R.Vasantha entered service as Postman with effect from 15.3.2003 and was promoted to the cadre of Postal Assistant on 20.1.2007. The applicant claims for stepping up of pay on par with direct recruit junior Smt.Rakhitha.N.B. The service particulars of Smt.K.R.Vasantha and the direct recruit junior to the applicant (Smt.Rakhitha.N.B) are furnished below

Name of the official	Date of entry in Postman cadre	Date of entry in PA cadre	Basic pay on the date of entry in the PA cadre	Position in the Divisional Gradation List as on 1.7.2011
Smt.K.R.Vasantha	15/03/03	20/01/07	9260/- (as on 1.7.2007)	242
Shri.Rakhitha.N.B	12/06/07	9910/-	243



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4. 6th applicant in the O.A entered service as Postman with effect from 23.11.1988 and was promoted to the cadre of Postal Assistant on 20.1.2007. The applicant claims for stepping up pay on par with direct recruit junior to the applicant Smt.Jyothy.C. The service particulars of the Shri.Thankappan.V.R., and the direct recruited junior to the applicant (Smt.C.Jyothy) are furnished below :

Name of the official	Date of entry in Postman cadre	Date of entry in PA cadre	Basic pay on the date of entry in the PA cadre
Shri.Thankappan.V.R	23/11/88	20/01/07	9860/- (as on 1.7.2007)
Smt.C.Jyothy	16/10/07	9910/-

5. Respondents state that the cases of 5th and 6th applicants fulfill the conditions laid down in Annexure R-1 clarification and orders for stepping up the pay are being issued in both the cases. The 7th applicant in the O.A was promoted as Postman, Kollam Division with effect from 1.6.2000 and was later promoted to the cadre of Postal Assistant, Kollam Division on 22.1.2007. The particulars of the Smt.N.Suseela Devi and the direct recruit junior to the applicant (Shri.T.V.Anoop) are furnished below :

Name of the official	Date of entry in Postman cadre	Date of entry in PA cadre	Basic pay on the date of entry in the PA cadre	Position in the Divisional Gradation List as on 1.7.2011
Smt.N.Suseela Devi	01/06/00	22/01/07	9170/-	195
Shri.T.V.Anoop	10/04/07	9910/-	202

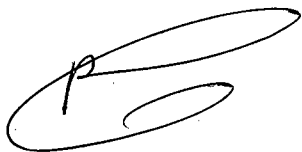


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The applicant is eligible for stepping up of pay with Shri.T.V.Anoop. The case of the applicant is being taken up Internal Finance Advice for concurrence of stepping up of pay.

6. The 8th applicant in the O.A joined as Postman in the Department on 5.3.1999 and was later promoted to the cadre of Postal Assistant with effect from 21.1.2007. The applicant is claiming stepping up of the pay on par with his junior Shri.K.Gopinathan, who had joined as Leave Reserve Postal Assistant in the Aluva Division on 2.4.2007. Shri.K.Gopinathan is not a direct recruitee, but a surplus qualified departmental candidate of Kasargod Division in 2006. Later, he got mutual transfer to Kannur Division. It is further submitted that the Annexure R-1 clarification is applicable to the direct recruits appointed on or after 1.1.2006 if they belong to the same seniority list for all purposes. The 8th applicant and Shri.Gopinathan.K are Postal Assistants promoted under departmental quota and hence the case of the applicant does not satisfy the 2nd condition of Annexure R-1. Hence, the 8th applicant is not eligible for stepping up of pay.


7. Respondents in the additional reply statement submit that orders have already been issued for stepping up of pay of Shri.V.Abdul Kareem and Shri.Baburaj Thayyullathil (applicants 1 and 2 respectively) at par with the junior Smt.Anupama.R vide letter No.A&P/18-2/11/VDK



dated 2.1.2014 of the Postmaster General, Northern Region, Kerala Circle, Calicut – 673 011. It is further submitted that orders of the competent authority have also been issued for stepping up of pay of Smt.Vasanth, Shri.Thankappan and Smt.N.Suseela Devi at par with their respective juniors.

8. Respondents submit that stepping up of pay of 1st and 2nd applicants at par with Smt.R.Anupama has been ordered on 2.1.2014. Orders have also been issued for stepping up of pay of 5th, 6th and 7th applicants at par with respective juniors.

9. The important condition required to be fulfilled for claiming stepping up of pay is that such a claim should be supported by a direct recruit junior drawing more basic pay than the seniors. Applicants 3 & 4 do not fulfill this condition. They are claiming stepping up of pay with Kum.Nivea Raveendran who is at Sl.No.125 of Divisional Gradation List whereas applicants are at Sl.No.129 and 130. The 4th applicant assumed charge as Postal Assistant on 30.12.2007. Kum.Nivea Raveendran was recruited against a direct recruitment vacancy for the year 2005 and hence is senior to the 4th applicant by virtue of the year of vacancy to which she was appointed.



10. Regarding the claim of 8th applicant, both applicant and his junior are promoted from the cadre of Postman. However, the junior Shri.K.Gopinathan had joined as Postman earlier than 8th applicant ie. 31.12.1995 whereas 8th applicant joined as Postman only on 5.3.1999. Hence he had the advantage of 3 years increment in comparison to 8th applicant. In the cadre of Postal Assistant 8th applicant joined on 21.1.2007 and Gopinathan on 2.4.2007 and both were due for increment, if any, in July of the year as per VIth CPC. Hence both are promoted officials and the difference in pay is due to earlier promotion in the cadre of Postman. One additional increment in the pre-revised scale on pay fixation at the time of VIth CPC pay fixation has already been availed by the 8th applicant.

11. Pay fixation as per VIth CPC is done in a similar manner across all services of the Government of India as per Department of Personnel and Training O.M.No.AB-14017/2/97-Estt.(RR) dated 25.5.1998. The said O.M has prescribed qualifying service for promotion from one post to the next. VI th CPC gives a running pay band for Group C and D and has fixed the increments due, year wise, for fixed qualifying service prescribed in above DOP&T O.M for movement from one grade in the running band to the next promotional grade. One increment for every year of fixed qualifying service prescribed so is computed and added to the minimum of the running pay band and pay is fixed for the next promotional grade accordingly. This is a formula fixed across all pay bands, for all cadres and across all services of



the Government of India. In addition to above the grade pay corresponding to the grade in the running pay band is also added to the above computation so calculated. This is the modality drawn up, post VIth CPC for pay fixation of direct recruits.

12. The VIth CPC in para 2.2.11 has also laid down the method of pay fixation on promotion from one grade to another in view of running pay bands. In such a case the pay is fixed by adding 3% of the sum of the pay in the pay band and the existing pay, rounded off to the next multiple of Rs.10/- to existing pay in the pay band. In addition to this fixation, the grade pay of the promotion post is also granted. No minimum pay band had been fixed for promotees but the above pay fixation has been prescribed.

13. The above recommendation of VIth CPC has been accepted by the Government of India for all services across all pay bands in the country as general recommendations on pay structure and fixation. This is not a fixation applicable to Postman promotees to Postal Assistants in Kerala Circle only as averred by applicants. This is also as per Rule 13 of CCS (RP) Rules, 2008, relating to fixation of pay on promotion on or after 1.1.2006.

14. The functional level of a post which was earlier identified on the basis of a pay scale, after VIth CPC, is identified with grade pay. Both



promotees and direct recruits will therefore be assigned the same grade pay. But pay in the pay band will be determined by length of service in the lower post for promotees, and minimum qualifying service for direct recruits. This method of pay fixation in running pay bands has been drawn up across all services of the Government of India across all pay bands. This is not a case of disturbing the historical parity between direct recruits and promoted employees. This is a case of fixation of pay in running pay bands wherein a number of scales of pay have been compressed and absorbed in a pay band.

15. The VIth CPC headed by a Supreme Court Judge in its wisdom and the nodal ministry, Department of Personnel has drawn up the methodology of fixation of pay on initial joining of a post by direct recruits in the same manner for all services of the Government of India, across all pay bands in the country. Pay fixation formulas have been drawn up based on certain principles uniformly applicable to all employees covered by the VIth CPC.

16. Hence we find no discrimination or arbitrariness or unreasonableness in the Government of India orders passed as a consequence of VIth CPC. Wherever admissible applicants have already been given benefit. The Original Application is, therefore, dismissed.

(Dated this the 10th day of February 2016)


P.GOPINATH
ADMINISTRATIVE MEMBER
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N.K.BALAKRISHNAN
JUDICIAL MEMBER