

CENTRAL ADMINISTRATIVE TRIBUNAL,
ERNAKULAM BENCH

Original Application No. 255 of 2013

Friday this the 8th day of April, 2016

CORAM:

Hon'ble Mr. Justice N.K. Balakrishnan, Judicial Member
Hon'ble Ms. P. Gopinath, Administrative Member

Sri Devadas Chulliyil, aged 43 years,
S/o. C.K. Kelu, Technical Postal Assistant,
O/o. The Postmaster General, Northern region,
Calicut – 673 011, residing at Chulliyil House,
Malliserry, Pallikunnu PO, Kamblakkad,
Wynad – 672 121.

..... **Applicant**

(By Advocate : Mr. Shafik M.A.)

V e r s u s

1. Union of India, represented by the Secretary,
Department of Posts/Director General, Posts,
Ministry of Communications, New Delhi – 110 011.
2. The Chief Postmaster General, Kerala Circle,
Trivandrum – 695 033.

..... **Respondents**

(By Advocate : Mrs. P.K. Latha, ACGSC)

This application having been heard on 15.3.2016, the Tribunal on

8.4.2016 delivered the following:

ORDER


Hon'ble Ms. P. Gopinath, Administrative Member -

The brief facts stated are as under:

The applicant is presently working as a Technical Postal Assistant doing the duties of the Postal Assistant for the last 12 years. He joined the services of the respondent department as a Postal Machine Assistant Grade-II with effect from 28.12.1991, consequent to being selected in an

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examination for selection as Postal Machine Assistant conducted by the Department after a public notification. While so, as per re-organization of the Postal Machine Organization (PMRO) all the Postal Machine Assistants, were trained in Computer repair and maintenance in the year 1999. Thereafter an order No. 88-3/96-PEII(Pt) dated 6.1.1999 was issued on behalf of the 1st respondent reorganizing the PMRO and re-designating and re-deploying the officials. Both the grades of erstwhile Postal Machine Assistants were merged and re-designated as Technical Postal Assistants in a single grade. As per above order, there is no distinction between erstwhile Postal Machine Assistants Grade-I and Grade-II. After the 6th CPC recommendations was implemented by the Government, the pay of the applicant was fixed in PB-1 Rs. 5200-20200/- with Grade Pay of Rs. 1900/-. The applicant has immediately pointed out the anomaly and has submitted representations. While so, as per memo No. ST/300-2/2008, dated 10.10.2008, the applicant was granted the grade promotion under TBOP scheme. The applicant has been drawing the pay as per the enhanced scale thereafter. After about three years thereafter a notice was issued as per letter No. ST/300/2/2008, dated 11.10.2011 intimating the applicant of the proposal to withdraw the enhanced pay as he was not entitled for the Grade Pay of Rs. 2800/- as has been granted to the PA and requiring the applicant to submit any representations, if any, against the said proposal. The applicant has immediately submitted a representation pointing out the merger and non-implementation of the merged scales. However, the respondents have now issued the impugned orders and reduced the pay of the applicant.



2. The applicant refers to paragraph 6 of Annexure A4 which reads as follows:

“Having regard to the phasing out/obsolescence of Postal Machines, maintenance of which was the responsibility of PMRO, the need to acquire new skills and aptitudes by the Postal Machine Assistants and Supervisors due to recent induction of computer based MPCMS etc. and the desirability for their consequent repositioning in each circle as per felt need in the exigencies of Services, it has now been decided that Postal Machine Assistants to be redesignated as Technical Postal Assistants and Supervisors to be redesignated as Technical Supervisors should be redeployed by the heads of circles in Post Offices/Circle/Regional offices within their jurisdiction in terms of Directorate orders No. 2-2/93-PE I dated 7.9.93 as per requirement keeping in view the retraining already undergone by them in the maintenance and operation of computer hardware and software to support the computerization of programme and related activities in the circle. The details of such redeployment made should be intimated by the Heads of Circles to this Directorate of the earliest.”

Thus, Postal Machine Assistants were redesignated as Technical Postal Assistants irrespective their pay and grade. There were two classes of Postal Machine Assistants Grade I and II in the pay scale of Rs. 3050-4590 and Rs. 4000-6000/- respectively, while issuing Annexure A4 OM. Though Annexure A4 does not specifically speak about merger of two scales of pay, it certainly amounts to merger as all the Technical Postal Assistants become entitled to higher scale of pay i.e. Rs. 4000-6000/-. It was submitted that Postal Machine Assistants, irrespective of their grade, were given the very same type of training and the duties and the responsibilities assigned to them after training are also one and the same. In the circumstances there cannot be any discrimination within the cadre of Technical Postal Assistants. Thus right from the date of redeployment after re-designation,



all the Postal Machine Assistants including the applicant became entitled to the scale of pay of Rs. 4000-6000/-. The respondents granted scale of pay of Rs. 4000-6000/- to Postal Machine Assistants Grade II as is evident from Annexure A12 dated 12.4.2000. Further it could be seen from Annexure A12 that Shri P.P. Neelakantan and Shri Sebastian who were recruited in the cadre of Postal Machine Assistants and working as Grade-II were granted scale of pay of Rs. 4000-6000/- whereas the applicant was granted scale of pay of Rs. 3050-4590/-. The applicant and the officials mentioned above are exactly similarly situated and is entitled to the same treatment. Apart from the above, LDCs of Administrative offices and SBCO Technicians of Telecom and Binders of printing presses of Postal Department, all with disparate job description, were all in the pre-revised scale of Rs. 950-1500/-. All of them were given the scale of pay of Rs. 4000-6000/- but the applicant alone was placed in the scale of pay against Rs. 3050-4590/- even after re-designation as TPA. It was under such circumstances the 6th CPC recommendation were implemented and the applicant was placed in the pay band of Rs. 5200-20200/- with Grade Pay of Rs. 1900/-. This being discriminatory, the applicant had taken up the matter with higher authorities. While so, on grant of financial upgradation under TBOP scheme, the applicant was rightly placed in the pay band I Rs. 5200-20200/- with Grade Pay of Rs. 2800/-. Annexure A1 which reduces the Grade Pay of the applicant to Rs. 2000/- is illegal. The entry scale of pay allowed to the erstwhile PMA grade-I on first appointment was Rs. 1320-2040/- where as PMA Grade-II was allowed the scale of pay of Rs. 950-1500/- only. After Annexure A4 there cannot be any distinction between



PMA Grade-I and PMA Grade-II. Both the categories were given the very same training and after re-designation and redeployment, the duties and responsibilities assigned to them are also same. In the circumstances the applicant is entitled to the grade pay admissible to PMA Grade I, and also entitled to the enhanced Grade Pay of Rs. 2800/- on grant of upgradation under TBOP.

3. Hence, the applicant sought the following relief:-

“(i) To call for the records relating to Annexure A1 to A12 and to quash A-1 being illegal and arbitrary;

(ii) To declare that the applicant is entitled to the higher scale of pay of Rs. 4000-6000/- on re-designation and re-deployment as per A4 and is also entitled for the Grade Pay of Rs. 2800/- in PB I of Rs. 5200-20200/- on placement in the higher grade under TBOP scheme;

(iii) To direct the respondents to grant all consequential benefits as per the above declaration.”

4. The respondent in the reply statement state that the applicant was initially appointed as Postal Machine Assistant Grade-II (PMA-II) with effect from 28.12.1991 in the scale of pay of Rs. 950-1500/- (pre-revised scale of Rs. 260-400/-). When the applicant was appointed, in Kerala, there were only three posts of PMAs and these posts were initially deployed at Mail Motor Service Unit (MMS), Ernakulam. Shri Neelakantan, another official was also initially recruited as PMA-II in the pre-revised scale of Rs. 260-400/- with effect from 5.9.1977. Shri Sasidharan Pillai, the third official was appointed as PMA Grade-I in the pre-revised scale of pay of Rs. 330-560/-. In the 4th Pay Commission Recommendations, the scale of

pay of Rs. 260-400/- was revised as Rs. 950-1500/- and Rs. 330-560/- was revised as Rs. 1200-2040/-. The scale of pay of Rs. 950-1500/- was revised as Rs. 3050-75-3950-80-4590/- with effect from 1.1.1996 on implementing the recommendations of the 5th Pay Commission. The scale of pay of PMA Grade-I Rs. 1200-2040/- was also revised as Rs. 4000-6000/- w.e.f. 1.1.1996. Hence, there were two distinctive pay scales of PMA Grade I and PMA Grade II. On implementation of the recommendations of the 5th Pay Commission, all the then existing Postal Machine Assistants were ordered to be redesignated as Technical Postal Assistants vide Directorate letter No. 38-3/96-PE.II(Pt.), dated 6.1.1999 (Annexure A4). As no separate pay scale was prescribed and as it was merely a re-designation of the post, the officials were allowed to draw the pay scales which were being drawn by them prior to the above re-designation. When the recommendations of the 6th Pay Commission was implemented w.e.f. 1.1.2006, the scale of pay corresponding to Rs. 3050-75-3950-80-4590 was revised to the Pay Band of Rs. 5200-20200 with grade pay Rs. 1900/- and that of Rs. 4000-6000 was also placed in the same Pay Band of Rs. 5200-20200/- but with a different Grade Pay of Rs. 2400/-. Hence, the distinction between the two posts was retained by VI CPC. The pay scales are summarized in the table below:

Designation	Initial Pay	4 th Pay Commission	5 th Pay Commission	6 th Pay Commission	On promotion
PMA-I	330-560	1200-2040	4000-6000	5200-20200 + GP 2400	5200-20200 + GP 2800
PMA-II	260-400	950-1500	3050-75-3950-80-4590	5200-20200 + GP 1900	5200-20200 + GP 2000



5. When the applicant in this OA became due for TBOP (a financial upgradation granted on completion of 16 years from the date of entry in the basic cadre), the applicant was wrongly treated as Postal Assistant in the Pay Band Rs. 5200-20200 with Grade Pay Rs. 2400 and accordingly he was cleared for upgradation to the next Grade Pay of Rs. 2800 in the pay band of Rs. 5200-20200 w.e.f. 17.1.2008. The Internal Audit Party during their inspection of the office of the Postmaster General, Northern Region, Calicut on 20.7.2009 noticed this discrepancy of application of Postal Assistant pay scale to Technical Postal Assistant which was a different cadre and had expressed doubt whether the TBOP scale in the post manned by the applicant carried grade pay of Rs. 2800/- as the next hierarchical grade pay as the official was drawing Rs. 1900/- as Grade Pay prior to the placement under TBOP. The issue was therefore, referred to the Circle Internal Finance Advisor (CIFA), Trivandrum the advisor to the Chief Postmaster General on all financial matters. The CIFA opined that the applicant was not given the pay scale of Rs. 4000-6000 (pre-revised pay scale for Rs. 5200-20200 + Grade Pay Rs. 2400/- applicable to Postal Assistants) by the 5th Pay Commission but was granted the pay scale of Rs. 3050-75-3950-80-4590/- being the pay scale of TPA redesignated as PMA and hence he was eligible for Grade Pay of Rs. 2000/- only on granting TBOP. Thereafter the applicant was served with a notice under FR-31A proposing to reduce his Grade Pay from Rs. 2800/- to Rs. 2000/-. The applicant was also given an opportunity to represent against the said action vide notice dated 11.10.2011. He submitted a representation dated 21.10.2011. After going through the representation and relevant documents, the Director, Postal



Services ordered to reduce the Grade Pay of the applicant from 2800/- to Rs. 2000/- vide order No. ST/300/2/2008, dated 4.12.2012. Aggrieved by which the instant OA has been filed by the applicant.

6. When the instant OA came up for consideration on 26.3.2013, this Tribunal passed an interim order directing the respondents to stay the operation of Annexure A1. In compliance with the direction of this Tribunal Annexure A1 has been stayed. The official is working as Technical Postal Assistant only and is attached to Regional Office, Calicut. As he has technical background, after being given training in computer operations and computer repairs, he is engaged for data entry and computer maintenance in the Regional office. His claim that he is working as Postal Assistant is not correct. He was not recruited as Postal Assistant and he was also not trained in Postal Operations. Postal Assistants in Post Offices have to deal with public money at Post Office counters for various transactions and it involves handling huge amount of cash. The applicant cannot be posted against such posts. The cadre of Postal Machinists became irrelevant with the induction of Computer Technology in various Postal operations as the mechanical machines such as Franking Machines, Adding and Listing Machines, Manual weighing scales etc. which were entrusted to the machinists for repairs were withdrawn. It was in this situation, Directorate had ordered to induct these officials for alternate possible work such as data entry etc. in administrative offices by re-designating the cadre as Technical Postal Assistant. Annexure A4 merely states the re-designation of Postal Machine Assistants as Technical Postal Assistants and there is no mention



about new or different pay scale being assigned to the redesignated Technical Postal Assistants (TPAs). As such, the TPAs would continue to draw the scale of pay which they were drawing prior to their redesignation as TPAs.

7. The averment of the applicant that the cadres of PMA Grade-II and PMA Grade-I were merged as a consequence of Annexure A4 is not correct. There is no specific mention in the said OM that these cadres were merged. Instead, it is only stated that these cadres will be redesignated as Technical Postal Assistants. If there was specific intention about the merger, the pay scale after the merger would have found a place in the said orders. Further the VI CPC also fixed different grade pay for the two posts. The applicant also continued to draw the same pay scales as applicable to PMA Grade-II after becoming TPA. Revision of pay scales of various posts/cadres is a prerogative of the Finance Ministry of the Union of India. The Director General of Posts or the Regional Postmaster General does not have any powers for revision of pay scale of any particular post. As such, necessarily, there will be no response to individual requests regarding revision of pay, especially in the case of the applicant as he was holding a dying cadre post and only in order to protect their retention in service, they were redesignated as TPA. With the advancement to computer technology, the services of TPA are minimal and in order to safeguard their interests, their services are being utilized in one way or the other. The argument of the applicant that there was no difference between PMA Grade-I and PMA Grade-II is not correct. PMA Grade-I had a higher scale of pay as compared



to PMA Grade-II. There was no avenue to use their skills as the mechanical machines which were being attended by them were withdrawn and replaced by computers. The Department had no choice but to retain them in service by providing some alternate kind of training. After re-designating these cadres as TPA, their services are utilized for simple computer maintenance and data entry. There was no other option to better utilize PMA Grade-I who continued to draw higher pay even after re-designating the cadre as TPA. The applicant in PMA Grade-II, therefore, cannot equate his position with PMA Grade-I just because they are being utilized for the same type of duties. They were recruited under different pay scales and the pay scales were never merged into one at any stage, even by the VI CPC.

8. Applicant's argument that his pay is below the pay scale of Postal Assistant is a acknowledged fact, as the applicant was recruited in cadre (PMA Grade-II) which was having pay scale lower than that of the Postal Assistants. At the time of his recruitment, the pay scale of PA was Rs. 975-1660 whereas the scale of PMA Grade-II was Rs. 950-1500/-. As per pay scale applicable to PMA Grade-II, his pay prior to his placement in TBOP was in the pay band of Rs. 5200-20200 with Grade Pay of Rs. 1900/- and when TBOP was granted, he was eligible to be placed in the next Grade Pay which was Rs. 2000/-. Thus, applicant's claim for parity is not justified. It is a misconception that the applicant is the only PMA Grade-II having scale of pay of Rs. 3050-4590/-. At the risk of repetition, it is submitted that Shri P.P. Neelakantan another official was also working in the cadre of PMA Grade-II. He was initially recruited as PMA Grade-II on 5.9.1977 and



placed in the pay scale of Rs. 260-400 which was later revised as Rs. 950-1500 as per RP Rules, 1986 (4th Pay Commission). On completing 16 years of service, he was placed in the scale of pay of Rs. 1320-2040/-. In the pay revision due from 1.1.1996, the scale of pay Rs. 1320-2040 was revised as Rs. 4000-6000. As such, it may be seen that the scale of pay Rs. 4000-6000 is the scale granted at the time of first upgradation of Grade-II PMAs. The applicant got his first upgradation on 17.1.2008. The applicant misconceives that PMA Grade-II has been granted pay scale of Rs. 4000-6000/- in the basic cadre even prior to the grant of TBOP, which is not true. The respondents have not shown any prejudice or lethargy towards the case of the applicant. The applicant got his due upgradation after 16 years but the grade pay was shown erroneously as Rs. 2800/- instead of Rs. 2000/- which cannot be left unnoticed. The respondent has taken action to reduce the Grade Pay from Rs. 2800/- to Rs. 2000/- only after observing the due formalities like issuing notice of reduction of GP etc. but no other adverse action affecting the career of the applicant has been taken. It is submitted that Annexure A1 was issued after serving the applicant with a due notice, giving him an opportunity to represent his position. He has submitted his representation and only after examining the representation and all the relevant records, Annexure A1 has been issued. Shri Sasidharan Pillai and Shri Neelakantan have retired and these two posts have been abolished. The applicant is the only official continuing as TPA. Recruitment of PAs and Technical PAs are on different footing and hence a TPA cannot be seen on par with a Postal Assistant. Thus, the applicant is not entitled to get any reliefs as sought for in the OA and the OA is liable to be dismissed.



9. Heard the counsel for applicant & respondents and the written submissions made. The prayer of applicant is to establish his entitlement to higher scale of pay of Rs. 4000-6000/- on re-designation from PMA to TPA as per Annexure A4 OM and grant Grade Pay of Rs. 2800/- in PB-I of Rs. 5200-20,200/- under TBOP scheme. Therefore, the issue that comes up for consideration is whether the above was a re-designation or merger.

10. Applicant relies on Annexure A4 OM issued on reorganization of PMRO. The said OM in paragraph 6 of page 2 states as follows:

“6. Having regard to the phasing out/obsolescence of Postal Machines, maintenance of which was the responsibility of PMRO, the need to acquire new skills and aptitudes by the Postal Machine Assistants and the supervisors due to recent induction of Computer based MPCM's etc. and the desirability for their consequent repositioning in each Circle as per felt need in the exigences of service, it has now been decided that Postal Machine Assistants to be redesignated as Technical Postal Assistants and Supervisors should be redeployed by the heads of circles in Post Offices/Circle/Directorate orders No. 2-2/93-PE.1 dated 7.9.93 as per requirement keeping in view the retraining already undergone by them in the maintenance and operation of Computer hard ware and software to support the Computerization Programme and related activities in the Circle. The details of such redeployment made should be intimated by the Heads of Circles to this Directorate at the earliest.”

11. The said OM states since Postal Machines are replaced by Computerized Multi Purpose Counter Machines the post of “Postal Machine Assistant” is redesignated as “Technical Postal Assistants” in keeping with the changed technology of operation. The above paragraph nowhere states that PMA Grade-I and PMA Grade-II is merged into TPA. This OM merely changes the nomenclature of the post but did not disturbs or alter the two



grades in which the erstwhile post operated, which was in the scale of Rs. 3050-4590/- and Rs. 4000-6000/-. Hence, any promotional avenue on becoming eligible for TBOP would be promotion from scale Rs. 3050-4590/- to scale of pay of Rs. 4000-6000/-. Applicant does not produce any evidence of order of merger of the Grade-I and Grade-II posts nor any order stating that after re-designation as TPA the post will operate under one pay scale of Rs. 4000-6000/-. There is also a statement which supports the two scales in the Annexure A4 OM "..... Postal Machine Assistants to be redesignated as Technical Postal Assistants and Supervisors to be designated as Technical Supervisor" thereby clearly outlining that there would be two posts after re-designation.

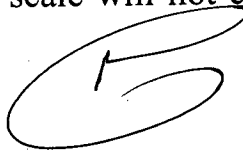
12. The PMA Grade-II (re-designated as TPA) were in the pay scale of Rs. 3050-4590/- which was fixed by 6th CPC in the revised Pay Band I as Rs. 5200-20,200/- with Grade Pay of Rs. 1900/-. Hence, the next Grade Pay on becoming eligible for TBOP would be Rs. 2000/- in PB-1. The inference of the applicant that on re-designation as TPA he was automatically assigned the higher grade pay of Rs. 2800/- is not supported by any document. The respondent admits that grant of Rs. 2800/- as Grade Pay was a bona fide mistake. In fact Annexures A1 and A4 actually refute this presumption. Annexure A1 reply is guided by Annexure A4 the original OM ordering the re-designation and not by any order of merger. Hence, the original pay scale of Rs. 950-1500/- for PMA Grade-II and Rs. 1320-2040/- for PMA Grade-I has not undergone any merger or change by any document/OM produced by the applicant. The replacement scale of 6th CPC of Rs. 3050-4590 and Rs.



5200-20,200/- is continued after the re-designation and the applicant cannot cite an erroneous pay fixation as the same is supported by the VI CPC rules.

13. The applicant argues that PMA-I and PMA-II were deputed for training together after the re-designation. Since the postal machines were replaced by Computerized Multi Purpose Counter Machines, the mechanical equipment which erstwhile PMA-I and II maintained and the computer which the redesignated TPA-I & II were to maintain, being the same, the training was imparted in a composite training programme. The composite training programme does not confer the right to seek similar pay scales unless supported by a Government of India order ordering amalgamation of lower and higher posts into a single post and single pay scale. Such an order has not been produced by the applicant.

14. The respondent argues that the post of Postal Assistant with whom applicant is claiming parity has a different educational qualification of 10+2 whereas on TPA educational qualification is SSLC and hence the parity of pay is not justified on the ground of parity of educational qualifications. The respondent also in the reply statement differentiates the duties performed by Postal Assistant & TPA and such a comparison does not have equating factors like duties of handling public money, learn post office procedures, etc. Further there is no mention of FR 23 in Annexure A4 which is required to be invoked, and also there is no reference in Annexure A4, if merger of pay scales was intended. Merely reiterating the wrong contention of merger of pay scale will not change the intention behind the re-designation of the



posts.

15. The Original Application is devoid of merits and is liable to be dismissed. Accordingly, the OA is dismissed. No order as to costs.



(MS. P. GOPINATH)
ADMINISTRATIVE MEMBER



(N.K. BALAKRISHNAN)
JUDICIAL MEMBER

“SA”