

**CENTRAL ADMINISTRATIVE TRIBUNAL  
ERNAKULAM BENCH, ERNAKULAM**

**O.A.No. 324/2013**

Thursady this the 11th day of February, 2016

**CORAM:**

**HON'BLE MR. U. SARATHCHANDRAN, JUDICIAL MEMBER**

Mr. K. Parangodan, S/o Ayyappan, K (Late)  
aged 58 years, Postman,  
Manjeri Head Post Office, Malappuram District,  
residing at Thamimadathil House,  
P.O. Palikkad (Via)  
Kuzhimanna, Malappuram District,  
Pin 673 641.

**Applicant**

**(Applicant Mr. Sajith Kumar, Advocate)**

vs.

1. Union of India, represented by  
the Secretary to the Government,  
Department of the Post,  
Government of India, New Delhi 110 001.

2. The Chief Postmaster General, Kerala Circle,  
Trivandrum 695001.

3. The Superintendent of Post Office,  
Manjeri Head Post Office,  
Manjeri, Malappuram 676121.

**... Respondents**

**(Respondents by Mr. C.P. Ravi Kumar, ACGSC)**

This Application having been finally heard and reserved for orders on  
27.01.2016, the Tribunal on 11.02.2016 delivered the following:

**O R D E R**

The Applicant is a Postman who was originally engaged as a G.D.S. M.C. under the respondents. He was selected to the cadre of Postman as per Annexure A/1 for the vacancy that arose on 2002. The examination for 50% departmental quota for the aforesaid post was conducted on 28.3.2004. The examination was notified only on 15.1.2004. Applicant was selected for

recruitment vide Annexure A/1 dated 13.7.2004. Applicant prays for directing the respondents to place him notionally with effect from the date of his entitlement to the post that is date of occurrence of the vacancies so as to enable him to be included in the statutory pension scheme under the CCS (Pension) Rules 1972 and to direct the respondents to stop the recovery towards contribution under the new pension scheme.

2. Applicant relies on the order dated 17.6.2011 in O.A. 620/2003 of this Tribunal where the similar benefits have been given to the Applicants therein which was again granted to the Applicants in O.A. 102/2010 and connected cases decided by this Tribunal in the common order dated 17.06.2011, marked as Annexure A/3.

3. Respondents filed a reply that the applicant was appointed as Postman as per examination conducted on 28.3.2004. By the time, the appointment of the Applicant was made the new pension scheme came into effect with effect from 1.1.2004. There is no provision in the recruitment rules for conducting the examination in the year of vacancy itself. There was no avoidable delay in conducting the examination. The sanction for transfer of unfilled vacancies of the departmental quota to the G.D.S. merit quota was received from the Postal Directorate only on 6.7.2004. On 8.7.2004, the applicant was selected and hence there is no delay in conducting the selection. The Applicant was appointed after the implementation of the new pension scheme and hence he was quite aware that he would be appointed in the cadre of postman only under the new pension scheme. The respondents, therefore pray for rejecting the prayer of the Applicant.

4. The Applicant filed a rejoinder pointing out that this Tribunal has time and again held that administrative delay shall not be permitted to recoil the future of the employee as has been held in Annexure A/5 common order



dated 21.9.2011 in OA No. 849/2010 and connected cases.

5. An additional reply statement and an additional rejoinder were filed by the parties. A second additional reply statement was filed by the respondents reiterating their contentions made earlier.

6. Heard Mr. Sajith Kumar, learned counsel for the Applicant and Mr. C. Ravi Kumar, learned ACGSC for the respondents.

7. On going through the pleadings and copies of the orders of this Tribunal mentioned in the pleadings of the Applicant it appears that the case of the applicant is squarely covered by the above cited decisions of this Tribunal viz O.A. 203/2012 Annexure A/3 common order dated 17.6.2011, O.A. 102/2010 and also Annexure A/5 common order dated 21.9.2011 in OA No. 849/2010 and connected cases. This Tribunal does not find any reason to depart from the *raison d'etre* adopted by this Tribunal in the above mentioned cases. Whatever be the reasons stated by the respondents for the delay in conducting the departmental examination for the post of postman from amongst the G.D.S. it is crystal clear that the vacancy that arose in 2002 was filled up by appointing the applicant only on 13.7.2004 by Annexure A.1 order selecting the applicant for the cadre of Postmen. It is settled law that any delay or lapses on the part of the administration shall not be permitted to recoil on the employees.

8. In the above circumstances the respondents are directed to consider the Applicant to be placed notionally with effect from the date of occurrence of the vacancy in 2002 as has been held in the afore-cited cases especially in O.A. No. 620/2003. The respondents are directed to stop recoveries towards contribution under the new pension scheme and the amount so recovered shall be refunded to the applicant. It is made clear that this order grants only the benefit of notional appointment to the applicant from the date of



occurrence of the vacancy against which he has <sup>been</sup> posted as Postman. The benefit of the order shall be available to the applicant for the purpose of calculating the increments and calculation of pensionary benefits only. He will not be entitled to any backwages. Ordered accordingly.

9. Parties are directed to suffer their own cost.

*U. Sarathchandran*  
(U. SARATHCHANDRAN)  
JUDICIAL MEMBER

sj\*