

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**



Original Application No. 691 of 2005
with
Original Application No. 347 of 2006

Friday, this the 18th day of January, 2008

C O R A M:

HON'BLE DR. K B S RAJAN, JUDICIAL MEMBER
HON'BLE MRS. O.P. SOSAMMA, ADMINISTRATIVE MEMBER

1. O.A. No. 691/2005

K. Rajeswary,
W/o. Gopakumar,
Accountant, Ernakulam Head Post Office,
Residing at Ushaus Thareparambil,
S.N. Junction, Tripunithura.

... Applicant.

(By Advocate Mr. P.C. Sebastian)

v e r s u s

1. The Director General,
Department of Posts,
Dak Bhavan, New Delhi.
2. The Chief Postmaster General,
Kerala Circle, Thiruvananthapuram.
3. The Senior Accounts Officer,
Office of the Dy. Director of Accounts (Postal),
Kerala Circle, Thiruvananthapuram.
4. The Senior Postmaster,
Ernakulam Head Post Office,
Kochi - 682 011
5. The Union of India, Represented by its
Secretary, Ministry of Communications,
Department of Posts, New Delhi.
6. The Secretary to Govt. of India,
Ministry of Personnel, Public Grievances and
Pensions, Department of Personnel & Training,
New Delhi :

... Respondents.

(By Advocate Mrs. K. Girija, ACGSC)

2. O.A. No. 347/2006

Anitha K. Alexander,
W/o. Alexander,
Postal Assistant (TBOP),
Kottarakara H.O., Residing at
Rock View House, Ambalakkara P.O.,
Valakaom : 691 532

... Applicant.

(By Advocate Mr. P.C. Sebastian)

v e r s u s

1. The Senior Superintendent of Post Offices,
Kollam Division, Kollam : 691 001
2. The Director General, Department of Posts,
Dak Bhavan, New Delhi.
3. The Senior Accounts Officer P.M. Section,
Office of the Dy. Director of Accounts (Postal),
Kerala Circle, Thiruvananthapura
4. The Union of India, Represented by its
Secretary, Ministry of Communications,
Department of Posts, New Delhi

... Respondents.

(By Advocate Mr. TPM Ibrahim Khan, SCGSC)

O R D E R
HON'BLE DR. K B S RAJAN, JUDICIAL MEMBER

As the issue involved in the above two O.As is one and the same, this common order would dispose of both the O.As.

2. At the very outset, it is to be stated that counsel for the parties had stated that an identical matter had been decided on 12-08-2004 by the Bangalore Bench in OA No. 616/2003 (which was in fact based on the decision of that Bench in another OA No. 296/2002). Here again, the decision of the Tribunal in OA No. 296/2002 had been under challenge before the Hon'ble High Court of Karnataka in Writ Petition No. 7593/2003. The other OA i.e. OA No. 616/2003,

was, therefore, disposed of with a direction to the respondents to regulate the relief in terms of the view, which is likely to be taken by the Hon'ble High Court of Karnataka in Writ Petition No. 7593/2003. Counsel for the applicant has submitted that these two O.As be also disposed of in the same fashion as OA No. 616/2003 of the Bangalore Bench.

3. Before passing an order as submitted by the counsel for the applicants, the facts in brief, in both the cases are as under:-

(a) The applicants initially joined the Postal Department and passed the PO and RMS Accountants examination and thereafter appointed as Accountants. The said post of Accountant carried a Special pay of Rs 90/- per month. Later on the applicants were promoted under the One Time Bound Promotion (OTBP scheme). Both have opted to have their promotion effected from the date of next increment in the lower post. While so fixing the pay of the applicants as per their option, respondents have not taken into account the special pay being enjoyed by them. The reason for non-inclusion was stated to be that the said special pay had been renamed as Special Allowances, not to be counted for such pay fixation. Aggrieved by the aforesaid decision, the applicants have filed independent O.As, praying for a direction to the respondents to take into account the special pay (special allowance) under the provisions of R.R. 22(1)(a)(i).

4. Respondents have contested the OA and they had stuck to their gun stating that the special allowance is not be taken into account while fixing the pay of the applicants on their promotion to the next grade under the TBOP Scheme.

5. The facts of the case in the O.As before the Bangalore Bench are identical save that in those cases, the pay was first fixed taking into account the element of special pay, but later on the same was sought to be reviewed and pay reduced and excess amount paid was ordered to be recovered. The Tribunal had allowed the O.A. and directed the respondents not to effect any recovery as proposed and further directed them to continue to pay the applicants their pay as originally scheduled. However, in the later case, it had been directed that the decision taken by the Hon'ble High Court of Karnataka in WP No. 7593/200 would bind both the cases.

6. We are also of the considered view that the decision in the writ petition should bind the case of the applicants in these two O.As. As in the other two cases, the applicants are enjoying the higher pay scale which takes into account the element of special pay granted to the applicants therein, in these two cases also, the respondents shall fix the pay of the applicants taking into account the special pay granted to them. The same shall be from the respective dates of promotion of the applicants. After fixing the pay as aforesaid, the respondents shall work out the extent of difference in the pay and allowances due to the applicants till date but the said amount be not paid to them for the time being. In case the decision of the Hon'ble High Court of Karnataka in WP No. 7593/2003 goes against the respondents, then the aforesaid amount shall be paid to the applicants with interest calculated @ 9% from the date such amounts became due. Pay from January, 2008 onwards, shall, however, be on the basis of the pay calculated after taking into account the special pay, as directed above and paid to the applicants. It is for the respondents to watch the pending case before the Karnataka High Court and to implement the order as and when passed by

the Hon'ble High Court. The Chief Post Master General, Kerala Circle may address suitable communication to his counterpart at Karnataka to inform the decision of the High Court of Karnataka in W.P.No. 7593/2003.

7. O.As are disposed of on the above terms.

(Dated, 18th January, 2008)

~~(O.P. SOSAMMA)~~
ADMINISTRATIVE MEMBER

~~(Dr. K B S RAJAN)~~
JUDICIAL MEMBER

CVF.