

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A.359/03

.....MONDAY...THIS THE 27th DAY OF MARCH, 2006

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HON'BLE MRS. SATHI NAIR, VICE CHAIRMAN
HON'BLE MR. GEORGE PARACKEN, JUDICIAL MEMBER

- 1 P.M.Subramanian, S/o Madhavan,
Supervisor SBCO, Irinjalakuda,
residing at Paravarambil, Perinjanam PO
Trichur.
- 2 K.K.Vishwambharan S/o K.K.Kunju Raman,
Supervisor, SBCO Alathur HO,
residing at Kaipara House, Avenerserry
Trichur.
- 3 All India Savings Bank Control Employees Union
represented by its Circle Secretary,
Kerala Circle, PK Joseph S/o Kurien,
BCR PA, SBCO Pala residing at Panjikunnel
Kidangoor, Kottayam.Applicants

(By Advocate Mr. M.R.Hariraj)

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- 1 Union of India, represented by the
Secretary to the Government of India,
Ministry of Communications,
Department of Posts, New Delhi.
- 2 The Chief Post Master General,
Kerala Circle, Trivandrum.
- 3 Director General of Posts,
New Delhi.Respondents

(By Advocate Mr. Varghese P.Thomas)

The application having been heard on 13.3.2006, the Tribunal on
27.3.2006 delivered the following:

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ORDER

HON'BLE MR. GEORGE PARACKEN, JUDICIAL MEMBER

The applicants alleged discrimination on the part of the respondents in allocating HSG-I posts between the employees of general cadre and Saving Bank Control Organization (SBCO for short).

2 The brief facts necessary for adjudication of the dispute raised by the applicants in this OA are as under:

3 The Respondent No.1 vide Annexure.A2 letter dated 30.3.2001 created 1622 posts of HSG-I Grade by up-grading the same number of HSG II grade posts in all Postal Circles in the country. Similar up-gradation of 208 HSG-II Grade posts had taken place in 1995. With the creation of this 1622 posts, 10% of the total HSG-II grade posts now stand upgraded as HSG I Grade and this ratio is to be maintained in all units as far as possible as per the norms. The up gradation from HSG-II grade II to HSG Grade I was to be made on functional basis. The mode of recruitment for the upgraded post was by the method of selection as prescribed in the Recruitment Rules for the HSG I grade posts. The SCBO staff for whom TBOP scheme was extended in 1991 was also entitled for the allocation of HSG I posts wherever justified as per norms. Noticing certain discrepancies, the aforesaid up gradation of 1622 posts was held in abeyance. Thereafter, the Annexure.A3 letter dated 16.7.20001 was issued to all the Heads of Postal Circle

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indicating their respective share of HSG I posts available after up-gradation. The Kerala Circle got additional 82 HSG I posts making the total tally of 112 posts. The 82 posts consisted of 69 HSG II posts and 13 LSG posts finally upgraded. There were 53 HSG-II posts consisting of 20 norm based LSG Supervisory posts, 33 HSG-II PA posts available in SBCO cadre in the Kerala Circle as on 1.7.93. The claim of the Applicants is that in terms of aforesaid letters dated 30.3.2001 and 16.7.2001 ten percent of the said 53 HSG II are LSG posts are to be upgraded to HSG I and accordingly the SBCOs cadre should have been allotted at least 5 HSG I posts. Their grievance is that only one post was allocated to them as against their entitlement of 5 posts and the same was also later on diverted to the Registered Letter Office (RLO for short) Trivandrum. The applicants further alleged that while denying the eligible number of HSG I posts to SBCO posts, Circle administration has sanctioned excess HSG-I posts to the General Cadre. The applicants submitted that the SBCO being a distinct cadre and the supervisory posts in SBCO can be filled up only from the available staff in SBCO and the denial and diversion of their share to the other cadre is irregular. The applicants have, therefore, sought a declaration that the SBCO Office in Kerala Circle is entitled for allotment of 5 posts of HSG-I and a direction to the respondents to upgrade 5 posts in SBCO, Kerala Circle to HSG-I forthwith and consider the

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applicants 1&2 for promotion to the said post in accordance with law.

4 The respondents have refuted the allegations and claims of the applicants. They have submitted that the allocation of HSG-I posts in SBCO was made on the basis of the norms fixed by the DG P&T, New Delhi vide their Annexure.R.2 and R2(1). letters No.29-2/78-PE-I dated 16.1.79 and No. 29-2/80-PEI dated 30.8.80 according to which the SBCO Head Office having more than 1,75,000 accounts alone will be entitled for one HSG-I post. Similarly, in the Central Pairing units also an HSG-I post can be sanctioned if only there are more than 1,50,000 transfers. In Kerala Postal Circle, Ernakulam HPO alone had more than 1,75,000 active accounts and accordingly one post of HSG-I was allocated there. The respondents have submitted that this one post of HSG-I allocated to SBCO also could not be filled up at the time of allocation as the persons eligible for promotion had declined the promotion. The post of HSG-I thus remained unfilled was temporarily diverted to RLO, Trivandrum for the post of Manager. However, later on this post has been returned to SBCO and filled up by HSG I official. On the Postal side the HSG-II posts were upgraded on functional basis in terms of the guidelines contained in Annexure.A2 letter dated 30.3.2001 and Annexure.A3 letter dated 16.7.2001. According to the Respondents, there are no HSG-II posts in SBCO and promotion to HSG-I can be made only from officials who have

put in three years service in HSG-II. Therefore, there was no question maintaining the ratio between HSG-II and HSG-I posts in SBCO organization. The promotion given to the SBCO officials was in accordance with the BCR Scheme which in turn was based on the length of service in the basic cadre which is only a financial up-gradation whereas HSG Grade II is a norm based supervisory post and for the same reason, BCR officials are not automatically entitled for promotion to HSG-I post. For holding an LSG/HSG-II post an official promoted under TBOP/BCR Scheme has to go through a selection through DPC. The applicants herein have never held HSG-II posts nor there were any HSG-II posts in any of the 51 SBCOs at the relevant point of time. The HSG-I post created by Annexure A2 were to be filled up by promotion in accordance with the relevant Recruitment Rules which prescribe a minimum three years eligible service in HSG-II post. Thus the TBOP/BCR officials who have not been promoted to LSG and then to HSG-II are not eligible for promotion to HSG-I post. Further, for filling up the HSG-I posts sanctioned vide Annexures A2 and A3 letters, the prescribed Recruitment Rules have to be followed. According to the Recruitment Rules, the officials who are regularly promoted to HSG-II norm based posts and who have put in at least three years regular service are only eligible for being considered for promotion to norm based HSG-I posts.

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5 The applicants in their rejoinder has submitted that the insistence of the Respondents to follow the Annexure.R.2 norms only for the SBCO staff and not for the postal side is discriminatory. They have also submitted that the condition No. (iii) in the Annexure.A.2 letter dated 30.3.2001 that distribution of HSG-I posts for SBCO staff has to be justified as per norms has been misconstrued by the Respondents. The applicant's contention is that the aforesaid condition has now become irrelevant. Originally the promotion from clerical grade to higher grades of LSG, HSG-II and HSG-I were not time bound. With the introduction of the Time Bound One Promotion Scheme (TBOP for short) on completion of 16 years in the entry grade, an employee has to be promoted to the next grade and as a result of which promotion to LSG based a seniority has practically became redundant. Later when Biennial Cadre Review Scheme (BCR Scheme for short) was introduced, the officials completing 26 years of service are placed in the next higher post of HSG-II. After the introduction of BCR Scheme, the norm based promotion to HSG-II has also become redundant. This was because the number of persons available for TBOP and BCR promotions were always more than the number of posts justified for the norm based promotion. The Applicant has further submitted that imposing restrictions of norms based on functional justification for SBCO alone amounts

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to hostile discrimination, which is violative of Articles 14 and 16 of the Constitution of India.

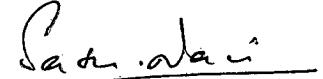
6 We have heard Mr. Hariraj for the applicant and Shri Varghese P.Thomas for the respondents. Admittedly TBOP and BCR are only financial up-gradations based on length of service. LSG and HSG II posts are norm based supervisory posts and the method of appointment is selection by a duly constituted DPC as prescribed in the Recruitment Rules. There cannot be any automatic promotion from TBOP and BCR to LSG and HSG-II for holding LSG & HSG -II posts. The TBOP and BCR officials also will have to undergo the selection process as per the Recruitment Rules. For promotion to HSG-II an official of LSG should have three years regular service in that post. Similarly for promotion to HSG-I post, one has to put in 3 years regular service as HSG-II. The Annexure.A2 letter dated 30.3.2001 also clearly stipulates that the mode of recruitment for the upgraded post will be by the method of selection as prescribed in the Recruitment Rules for the HSG-I posts for the concerned unit. Therefore, only the TBOP/BCR officials who have been promoted as LSG/HSG-II as per Recruitment Rules are eligible to be considered for the upgraded post of HSG-I by selection as per the Recruitment Rules. Therefore, the BCR officials cannot straight away claim promotion to HSG-I grade. As regards maintaining ratio is concerned, it is between HSG-II and HSG-I posts. As no HSG-II posts as such were in existence in SBCO

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at the relevant time, maintaining such a ratio with respect to the SBCO officials is far fetched. In view of the above factual matrix of the case, we see no merit in the OA and accordingly the same is dismissed. There is no order as to costs.

Dated this the ^{27th} day of March, 2006


GEORGE PARACKEN
JUDICIAL MEMBER


SATHI NAIR
VICE CHAIRMAN

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