

the O.A., Time Bound One Promotion (TBOP) Scheme was extended to the staff working in Savings Bank Control Organisation (SBCO) in the department of Posts. It has been indicated that the issue of extending Time Bound Promotion Scheme to SBCO staff had been under consideration for some time past and it was decided to extend the same to the said staff. The Scheme was to come into effect from 1-8-1991. The main features of the said scheme are that the posts of LDCs (950-1500) and UDCs (1200-2040) in the SBCO and Internal Check Organisation, except to the extent of LDCs/UDCs who remain under the existing scale, will be abolished and equal number of Time Scale Postal Assistants (975-1660) will be created. It was also provided that the remaining posts will, however, be converted as Postal Assistants (SBCO) as and when the concerned LDC/UDC ceases to hold that post. All the existing LDCs/UDCs were required to furnish, within one month, their option under FR-23, and it was provided that if they so like they may retain their old pay in the existing scale of pay which would be personal to such officials. The Scheme further provides that the officials who do not opt for their old scales will be brought into the Postal Assistants Grade(SBCO) and their pay will be fixed under FR 22 I(a)(2) as substituted by Government of India, Department of Personnel and Training Notification dated 30/8/89 by treating the posts in the time scale as not involving assumption of higher duties and responsibilities.

2. The scheme further provides that the existing officials who do not opt for old scale, would be considered for grant of first promotion in the next higher scale of Rs.1400-2300 if they complete/have

completed 16 years of service as LDC or UDC and UDC or as Postal Assistant and UDC taken together. It was provided that their pay, on grant of promotion, will be fixed under F.R. 22(c) with reference to the pay fixed in the time scale. The scheme further provides that consequent upon reorganisation, the distinct identity of SBCO will be maintained and Postal Assistants (SBCO) will not be interchangeable with the Postal Assistants of the Post office. Another main provision in the said scheme was that the Heads of Circles will take immediate action to replace the posts of LDC/UDC by the post of Postal Assistant (SBCO) and thereafter identify the officials who have completed 16 years of regular service as LDC or LDC & UDC or UDC and Postal Assistant as on 31-7-91. Thereafter action be initiated to convene DPC to consider promotion of the staff to the operative cadre to the next higher scale of pay. The scheme further provides that promotion to LSG 1/3rd quota on the basis of departmental examination will be abolished on introduction of the scheme in respect of LDCs/UDCs who opt for the post of Postal Assistants (SBCO). Promotion to LSG 1/3rd quota on the basis of the departmental examination will, however, continue in respect of those UDCs who do not opt for Time Bound One Promotion Scheme.

3. The applicants, who are UDCs, have challenged the said Time Bound One Promotion Scheme on the basis that the cadre of UDC and LDC are separate. Both the cadres carry a distinct scale of pay. LDCs carry a lower scale of pay. It has further been pleaded that under the recruitment rule only UDCs are entitled for

promotion to Lower Selection Grade (Supervisor) (LSG-Sup.) in the pay scale of Rs.1400-2300/- within their promotion quota of 2/3rd on the basis of seniority-cum-fitness, while 1/3rd posts are filled from amongst UDCs on the basis of departmental examination. It is thus asserted that they have no claim for promotion to the post LSG (Supervisor) and they are to be first promoted to the cadre of UDCs. A vague argument has been made, ~~that~~ in the absence of specific particulars, <sup>that</sup> ~~made~~ under the scheme, the LDCs would supersede the existing UDCs and consequently they would become seniors to the applicants who work <sup>are</sup> as UDCs, in the matter of promotion to the next grade of LSG (Supervisor).

4. The respondents have filed a detailed C.A. The stand of the respondents in the C.A. is that as per agreement with the staff side the extension of Time Bound One Promotion Scheme to the staff working in the SBCO was introduced. The respondents further indicate that the Scheme envisages pay protection of the officials who retain their old pay in their existing pay scale which would be personal to such incumbents. Secondly, the officials who opt for the old scale will continue to be governed by the conditions/rules as are applicable thereto as at present. The respondents have stated that the scheme has been implemented with the consent of various Staff Unions and finalised in consultation with the Department of Personnel and Training and Ministry of Finance. In the C.A. it has also been stated that certain judicial proceedings were initiated by various SBCO and Staff Unions in the Tribunal as also in Calcutta High Court demanding ~~80 : 20~~ 80 : 20 cadre as in Postal Accounts Organisation. The

department examined the proposal of restructuring the cadre of SBCO staff on similar pattern now prevailing in the operative offices with a view to making SBCO eligible for time bound promotion scheme. It has also been stated that before implementation of the scheme, the officials in the cadre like LDC etc. have to retire only in the scale of UDC without getting any further promotion in Supervisory cadre. With the introduction of the scheme the employees of the SBCO may get first promotion in LSG after 16 years and second promotion in HSG after completion of 26 years of service. It has further been indicated that as there is practically no direct recruitment to the posts of UDC since 1972, as per the existing set up and as per the rules and regulations, approximately 70% to 80% officials in the posts of LDCs and UDCs cadre have completed 12 to 16 years in LDC and UDC cadre combined i.e. 1 to 8 years in LDC grade and 5 to 6 years in UDC grade.

5. The applicants have filed R.A. and reiterated their averments in the O.A.

6. We have heard the learned counsel for the parties. Before dealing with the submissions of the parties it would be relevant to point out that on 8-11-91 an interim order was passed providing that the option to be exercised shall not be treated as lapsed. At the hearing the learned counsel for the applicants conceded that the applicants have not exercised their option which was called for under the Scheme. He submitted that the applicants shall exercise their option after the decision in the O.A. is rendered. The main features of the Scheme have been indicated herein

above. The learned counsel for the respondents submitted that there was no compulsion on the UDCs to exercise their option in favour of the Time Bound One Promotion Scheme. The Scheme further provides that the UDCs who do not opt for the said Time Bound One promotion Scheme and wish to retain their old scale of pay, will have the advantage to continue in their old scale of pay as personal and to them the old scale will continue to be governed by the conditions as are applicable thereto as at present. The promotion to the LSG 1/3rd quota, on the basis of the departmental examination, will continue to be available to those UDCs who do not opt for Time Bound One Promotion Scheme. The grievance raised in the O.A., in the absence of the applicants' having exercised their option either way, only raise a hypothetical question. Reorganisation of a cadre is well within the power of executive authorities. In view of the averments in the C.A. that the Scheme has been formulated and finalised in consultation with the SBCO Staff Unions and Department of Personnel and Training and keeping in view the persistent demand for restructuring the cadres, if the authorities, in their wisdom, have drawn up a scheme on the hypothetical assumption that the Scheme is likely to be adverse to the interest of a few employees, in our opinion, would not be sufficient to call for interference at our hands. In the absence of necessary materials and details about the periods of service of the applicants completed as LDC & UDC and when they would be entitled to be considered for promotion to the LSG (Supervisor), it is difficult to

assume that the LDCs will gain a march over the applicants and will be promoted to the grade of LSG(Supervisor) earlier than them. In the C.A. it has been indicated that, for promotion to the post of UDC, the LDCs have to put in about 1 to 8 years of service. The dates of promotion of the applicants as UDC or whether they were initially directly recruited prior to 1972 as UDC, has also not been stated in the petition. On the academic hypothesis that the post of LDC is lower than that of a UDC and the Scheme not providing any provision for higher seniority to the UDC, if they opt for one time promotion scheme, while computing the requisite 16 years of service, does not convince us that on this mere hypothesis interference <sup>with</sup> ~~to~~ the scheme is called for. There is no difficulty in appreciating that the incumbents of LDCs are in a lower grade and lower in status than the UDCs. Reliance on the recruitment rules is also meaningless and irrelevant once the scheme comes into effect and the existing LDCs/UDCs who opt for the scheme have been brought into a single cadre of Postal Assistant SBCO, the recruitment rules governing the LDCs' and UDCs' cadre will become inoperative since the said cadre would stand abolished and merged into the newly contemplated cadre of Postal Assistant SBCO.

7. There is no compulsion in the scheme for the existing UDCs like the petitioners to opt for the Time Bound One Promotion Scheme. If they chose not to exercise their option, relevant safe-guard in the

matter of their conditions of service have been provided in the said Scheme. The Scheme is in the nature of policy decision of restructuring and re-organising these cadres. No legal right of the applicants has been shown to have been infringed, much less violation of any statutory or constitutional provision.

8. In view of the discussion herein above, we find no merit in the O.A. and it is accordingly dismissed. Interim order passed earlier is vacated. We, however, provide that the respondents shall entertain if any of the applicants exercise option in favour of the Time Bound One Promotion Scheme within one month from the date of communication of this order. In case any of the applicants does not exercise such option and send necessary intimation to the respondents, he would be governed by the provisions in the Scheme for those who do not opt for the Scheme. No order as to costs.

MEMBER(A)

3-7-95

*B. Lakshmi*

VICE-CHAIRMAN.

(NAIR)