

REGISTERED

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH
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Commercial Complex (BDA),
Indiranagar,
Bangalore - 560 038

Dated : 21-12-87

APPLICATION NO^S 722 & 915 /88(F)

W.P. NO

Applicant

Shri K. Selvaraj & another

Respondent

V/s The Secy, Dept of Posts, New Delhi & 2 Ors

To

1. Shri K. Selvaraj
Sorting Compiler
Office of the Post Master General
Karnataka Circle
Bangalore - 560 001

2. Shri R. Ranganatha
Sorting Compiler
Office of the Post Master General
Karnataka Circle
Bangalore - 560 001

3. The Secretary
Department of Posts Dak Bhavan, New Delhi - 110 001
Ministry of Communication
Subject: SENDING COPIES OF ORDER PASSED BY THE BENCH

4. The Post Master General
Karnataka Circle
Bangalore - 560 001

5. The Senior Superintendent
RMS, Bangalore Sorting Division
RMS Bhavan, Mysore Road
Bangalore - 560 026

6. Shri M.S. Padmarajaiah
Central Govt. Stng Counsel
High Court Building
Bangalore - 560 001

Please find enclosed herewith the copy of ORDER/88(F)/
~~INTERIM ORDER~~ passed by this Tribunal in the above said
application on 11-12-87.

Encl : as above

8)C

~~JCV~~ S. H. Rao
DEPUTY REGISTRAR
~~SECRETARIAL OFFICE~~
(JUDICIAL)

RECEIVED 6 copies 23/12/87

Diary No. 1561 C24/87
Date: 30.12.87 AM

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH: BANGALORE

Dated: the 11th day of December, 1987.

Present

THE HON'BLE MR. L.H.A. REGO .. MEMBER(A)
THE HON'BLE MR. Ch. RAMAKRISHNA RAO .. MEMBER(J)

APPLICATIONS NOS. 722 & 915 OF 1987(F)

K. Selvaraj,
Sorting Compiler,
Office of the Post Master General
Karnataka Circle, Bangalore-1.

.. Applicant in
Appln. No. 722/87

(in person)

R. Ranganatha,
47 years,
Sorting Compiler,
Office of the Post Master General,
Karnataka Circle, Bangalore-1.

.. Applicant in
Appln. No. 915/87

(in person)

-vs.-

1. The Union of India
by its Secretary to
Dept. of Posts, Ministry of
Communications, 'Dak Bhavan'
New Delhi-110 001
2. The Post Master General
Karnataka Circle,
Bangalore-560 001.
3. The Senior Superintendent,
RMS, Bangalore Sorting Division,
RMS Bhavan, Mysore Road, Bangalore-26. Respondents in
both the Applns.

(Shri M.S. Padmaraja, Senior Standing Counsel for Central-
Government appearing for respondents.)

These



These applications coming on for hearing, Hon'ble Shri L.H.A. Rego, Member(A), made the following:

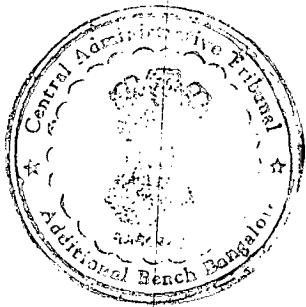
ORDER

In these two applications, namely Applications 722 and 915 of 1987 (abbreviated as A-722 and A-915, respectively, to designate the applicants) filed under Section 19 of the Administrative Tribunals Act, 1985, wherein, the questions of law and fact involved are common and which therefore, we propose to dispose of by a common judgment, ⁴ A prayer is to direct the respondents: (i) to fix their pay in the pay scale of Rs.1400-2300, with effect from 4-8-1986 and 30-11-1983 respectively and pay them arrears of salary as a consequence, (ii) to grant them the benefit of Special Pay attached to the post of Sorting Compiler ('SC' for short), in accordance with the relevant instructions of the Director General, Posts and Telegraphs ('DG, P&T' for short) read with Fundamental Rule ('FR' for short) 22-C, till such time they complete their tenure/officiating period; and (iii) to retain them in the tenure post of SC, till completion of the prescribed period.

2. In addition, A-722 prays, that the Letter dated 14-7-1987 of A-2 (Annexure-G), rejecting his request to fix his pay in the pay scale of Rs.1400-2300, while actually working as SC, be quashed.

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3. The following salient facts bring out the cases in their perspective, for the purpose of determining the questions raised in these two connected applications. A-722 and A-915 entered service in the Railway Mail Service ('RMS' for short) Wing, as Sorters or Sorting Assistants ('SA' for short), in the pay scale of Rs.975-1600 on 4-8-1970 and 19-2-1962 respectively, in the erstwhile Posts and Telegraphs Department. A-722 was posted by R-2 in his office to officiate as SC, in a tenure post, by his order dated 19-6-1984 (Annexure-A), to officiate as SC, with effect from 2-6-1984, for a period of 5 years, making him eligible to draw Special Pay of Rs.30/- per mensem (later enhanced to Rs.60/- per mensem). The tenure of A-722, in the post of SC, is scheduled to expire on 1-6-1989. A-915 too, ~~was~~ similarly posted, to officiate as SC, in the Office of R-2 and his tenure in this post, is said to have expired on 17-11-1987.

4. The Government of India introduced with effect from 30-11-1983, what is known as the Time-Bound-One-Promotion-Scheme ('TBOP' Scheme for short) in the Posts and Telegraphs (P & T) Department. According to this Scheme, all officials belonging to the basic grades in Groups 'C' and 'D', to which ~~there is~~ direct recruitment ~~is~~ either from outside and/or by means of limited competitive examination, from the lower cadres and who complete 16 years of service in that grade, are eligible

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for promotion to the next higher grade. This TDOP Scheme is applicable to the operative cadres in the P & T Department, as listed in Annexure-A(i) to that Scheme. The post of SC in the office of R-2, does not appear in this Annexure, while certain posts in the Postal and RMS appear, ^{Divisions, &c} and therefore, these posts come within the purview of the TBOP Scheme.

5. There are some posts of SCs in the office of R-2 (known as the Circle Office) the pay scale of which namely Rs.975-1600, is equivalent to that of Post Office Clerks and RMS Sorters or SAs, except that ^{In the} carry a Special Pay of Rs.30/- per mensem, which was later enhanced to Rs.60/- per mensem. These are tenure posts, which are filled in on deputation basis, from among suitable RMS Sorters or SAs, for a tenure of 5 years.

6. A-722 having completed 16 years of service in the Postal Department, as RMS, SA, was promoted by R-3, to the next higher grade of Lower Selection Grade, ^{of} Sorting - Assistant (LSG SA, for short) in the pay scale of Rs.1400-2300, with effect from 4-8-1986, under the TBOP Scheme (Annexure-E). A-915 was similarly promoted by R-3 as LSG SA with effect from 30-11-1983 (Annexure-A).



7. A-722 states, that he submitted a representation on 26-6-1987 to R-2 (Annexure-F), to fix his pay in the pay scale applicable to the post of LSG SA. Perusal of Annexure-F however reveals, that it is dated 13-8-1987. The aforesaid representation dated 26-6-1987 of A-722, is seen to have been turned down by R-2, on 14-7-1987 (Annexure-G), stating, that instructions dated 1-3-1984 of the DG P & T, were not relevant to the post of SCs, and giving A-722 to understand clearly, that if he desired promotion under the TBOP Scheme, he was to free to return to his parent RMS Division. Aggrieved, A-722 has approached this Tribunal for redress.

8. A-915 states, that initially being ignorant of the instructions of DG P&T in the matter, he had indicated to R-2, that he was willing to forego promotion to the grade of LSG SA, if the instructions dated 1-3-1984 of the DG P & T were not applicable to SCs (Annexure-E). However, after having come to know, that the pay of SCs on promotion to the cadre⁴ of LSG SA, in the neighbouring Circle (Annexure-H) and of Cashiers in his own Circle (Annexure-J) was protected, he states, that he submitted another representation [Annexure G(i)] to R-2, in ~~new~~ ^{renew} his earlier one, in the light of these instances ^{with a request} ~~are~~ to fix his pay accordingly.

9. As there was no response from R-2 to these representations, for over a year, A-915 states, that he had

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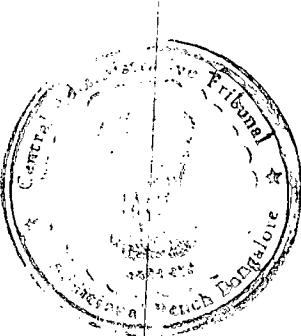
to take recourse, to come before this Tribunal for redress through his present application. It is however seen, that R-2 by his Letter dated 18-4-1984 had informed A-915, through R-3, that his (A-915) request to continue as SC, in the Office of R-2, till the completion of his tenure after accepting promotion to the grade of LSG SA, under the TBOP Scheme, was not agreed to, but his other request to forego his promotion, to the grade of LSG SA, till completion of his tenure as SC, in the Office of R-2 was acceptable. A-915 was therefore permitted to continue as SC, in the Office of R-2 till 17-11-1987.

10. The respondents have filed their reply to only Application No. 722 but not to the other application, namely, Application No. 915.

11. The applicants argued their case in person. They contend, that as they have been duly promoted to the next higher cadre of LSG SA, from the post of SC, in the Office of R-2, their salary should be fixed in the pay scale sanctioned for the post of LSG SA, as otherwise the promotion granted to them would be meaningless. According to them, the instructions contained in Letter dated -- 17-12-1983 of DG P&T (Annexures H and K, respectively in Applications Nos. 722 and 915), clearly state (also vide Annexure-C thereto), that on implementation of the TBOP Scheme, Special Pay is inadmissible only in respect of the following posts:

(i) Time

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- (i) Time Rate SPM, both single and double Handed.
- (ii) Time Rate Head Sorters
- (iii) Time Rate Sub-Record Officers.

They therefore contend, that the post of LSG SA is not excluded from the benefit of Special Pay.

12. They also contend, that the benefit of the instructions in Letter dated 1-3-1984 (Annexures C and D(i) respectively) of the DG P&T, cannot be denied to the SCs, relying in particular in para-3 thereof, and cite an instance in SSRM, Madras Sorting Division, where a SC working in the Office of the PMG in Tamil Nadu, has been granted the benefit of Special Pay on promotion, as LSG SA. They refer to a further instance, of similar benefit having been conferred on Cashiers, in SRM, RMS 'Q' Division, Bangalore, by R-3, by his Memo dated 2-1-1987 (Annexures C and I respectively) and assert, that the aforesaid Letter dated 1-3-1984 of the DG P&T, does not confer ~~the benefit~~ ^{benefit} on Cashiers, but ~~unintendedly~~ ^{unintentionally}, R3 has extended the benefit to them, by his Memo dated 26-3-1984 (Annexures K and J respectively), on their promotion under the TBOP Scheme, in terms of the instructions contained in the aforementioned Letter dated 1-3-1984 of the DG P&T.

13. Both the applicants plead, that Special Pay attached to the post of SC, in the Office of R-2, has no



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relation to fixation of their pay, on promotion as LSG SA, under the TBOP Scheme, as Special Pay is granted on the exclusive criterion, such as Specialised nature of duties, required to be performed in the post and in a tenure post like that of SC, in the Office of R-2, duties of such nature, are required to be performed, even after promotion as LSG SA (they refer to paras 16, 17 and 22(iv) of Annexures H and K respectively), which justifies continuance of Special Pay. They further contend, that promotion under the TBOP Scheme, is granted to identified Officials and not against identified posts, according to para-2 of the Letter dated 17-12-1983 from the DG P&T (Annexures H and K respectively).

14. Refuting each of the above contentions, of both the applicants, Shri M. S. Padmarajaiah, learned Counsel for the respondents, submits, that the benefit of the TBOP Scheme, in tenure posts, as envisaged in Letter dated 1-3-1984 from the DG P&T (Annexures C and D(i) respectively) read with Letter dated 17-12-1983 of the DG P&T in their entirety (Annexures H and K respectively, are only an extract) is not applicable, to the post of LSG SA in the Office of R-2 and invites our pointed attention to Annexure-A(1) (indicating the cadres covered under the TBOP Scheme), to the aforesaid Letter dated 17-12-1983 to show, that this post does not appear therein. He clarifies, that the TBOP Scheme is applicable only to posts such as

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Post Office Clerks, RMS Sorters working in tenure posts, Wireless Licence Inspectors and Treasurers, in Postal/RMS Divisions, which are borne on the establishment of Postal/RMS Divisions. He therefore deduces therefrom, that in order to be eligible for promotion as LSG SA under the TBOP Scheme, the applicants who were officiating in a tenure post of SC, in the Office of R-2, which was outside the purview of the TBOP Scheme, should have reverted to their parent post namely, SA in the Postal/RMS Division. In this connection, he refers to the reply given by R-2, to A-722 on 14-7-1987 (Annexure-G) to his representation, wherein the letter was informed, that his pay could not be fixed in the pay scale of Rs.1400-2300 as LSG SA, so long he continued to work as SC in the office of R-2 and that the instructions of DG P&T, in his aforesaid Letter dated 1-3-1984 (Annexure-C) were not relevant to the post of SC. Besides R-2 had given A-722, the option to go back as SA, to his parent RMS Division.

15. Shri Padmarajaiah stated that the representation addressed by A-722, to DG P&T, New Delhi, had since been decided on 1-12-1987 and the request of the applicants to grant ^{the} benefit of the TBOP Scheme, in the tenure post of SC, in the Office of R-2, was negatived. A-722 did not dispute this fact.

16. As regards A-915, Shri Padmarajaiah pointed out, that R-2, ^{had} in reply to his representation, ^{had} informed him

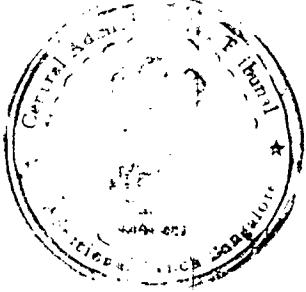
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on 18-4-1984 (Annexure-F) through R-3, that his request to grant him the benefit of the TBOP Scheme, in the tenure post of SC in the Office of R-2, was not agreed to, but his request to forego promotion as LSG SA, under the TBOP Scheme and to complete his tenure as SC in the Office of R-2, was accepted and he was allowed to continue in this post till 17-11-1987.

17. We have carefully examined the rival contentions as also the material placed before us, particularly, the TBOP Scheme and the instructions issued thereon, by the DG P&T from time to time. The DG P&T, New Delhi, has issued elaborate and comprehensive instructions under his letter dated 17-12-1983 (reproduced in part in Annexures H and K, respectively) in regard to implementation of the TBOP Scheme, in the Posts and Telegraphs Department. The very preface of these instructions makes it clear, that the TBOP Scheme applies only to regular employees in the Operative Cadres (emphasis supplied), in the P&T Department. Shri Padmarajaiah states, that these operative cadres are actually field cadres, as in the Postal and RMS Divisions and that the tenure post of SC held by the applicants in the Office of R-2 is a functional post, to which the provisions of the TBOP Scheme did not apply. This is evident from Annexure A(i), to the aforesaid Letter dated 17-12-1983, which specifies, the grades covered under the TBOP Scheme, wherein the post of SC in the office of R-2, is conspicuously omitted.



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18. As for reliance by the applicants on Letter dated 1-3-1984 of the DG P&T(Annexures C and D(i) respectively), particularly para-3 thereof, Shri Padmarajaiah clarified, that the tenure posts of ⁴⁴WL and Treasurers were not referred to therein, by way of illustration, as contended by the applicants(to lay claim for protection of their Special Pay in the post of SC in the office of R-2, on promotion as LSG SA under the TBOP Scheme) but specifically, to the exclusion of other tenure posts, for special reasons.

19. We are persuaded to accept the above submission of Shri Padmarajaiah. Besides, Annexure A(1), to the aforesaid Letter dated 17-12-1983, of DG P&T, New Delhi, does not specify, the tenure post of SC in the Office of R-2, as covered by the TBOP Scheme. The applicants are vainly seeking to enjoy, continuance of benefit of Special Pay, in the tenure post of SC, outside the purview of the TBOP Scheme, even on promotion, under that Scheme, from their parent post. The TBOP Scheme and the instructions issued thereon by the DG P&T, in amplification, from time to time, do not entitle the applicants to this benefit. The applicants therefore, have to opt clearly whether to complete their tenure, in the tenure post of SC in the Office of R-2, foregoing promotion as LSG SA under the TBOP Scheme in the meanwhile or to return to their parent post of SA, in the RMS or Postal Division and avail of promotion as LSG SA under the said scheme



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foregoing Special Pay, in the tenure post of SC in the Office of R-2. This has been explicitly indicated by R-2 and R-3 to the applicants, in reply to their representations but for one reason or the other, the applicants have been dilly-dallying under a mistaken notion. To put it metaphorically, "they cannot eat the cake and have it too!" The applicants can either opt to complete their prescribed term in the tenure post of SC in the Office of R-2 (whenever the term is yet to expire), foregoing promotion as LSG SA under the TBOP Scheme, in the meanwhile, or in the alternative, revert to their parent post of SA, in the Postal or RMS Division as the case may be, to avail of promotion as LSG SA under the TBOP Scheme. The applicants have referred to certain instructions in some other Circle, where promotions have been granted in tenure posts with continuance of benefit of Special Pay. We do not know the actual background to these cases, though ex facie, they do not seem to be governed by the provisions of the TBOP Scheme.

19. In the result, the applications fail and we therefore dismiss the same. No order as to costs.

Sd/-

(Ch. RAMAKRISHNA RAO)
MEMBER(J)

Sd/-

(L.H.A. REGO)
MEMBER(A)

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SECTION OFFICER
CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH
BANGALORE

