

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

Second Floor,
Commercial Complex,
Indiranagar,
BANGALORE- 560 038.

Dated: -4 MAY 1994
10/5

APPLICATION NO: 648 of 1994

APPLICANTS:- Mr. Walter D'Souza
V/S.

RESPONDENTS:- Dir. General (Posts) New Delhi & Amr.

I.

1. Sri. A. R. Holle, Advocate
No. 3A, II Floor
Sujatha Complex
1st Cross, Gandhi Nagar
Bangalore - 560 009.
2. Shri. G. Shantappa
Addl. C.G.S.C.,
High Court Bldg
Bangalore - 1.

Subject:- Forwarding of copies of the Orders passed by the
Central Administrative Tribunal, Bangalore.

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Please find enclosed herewith a copy of the ORDER/
~~STAY ORDER/INTERIM ORDER/~~ passed by this Tribunal in the above
mentioned application(s) on 28th October 1994

Issued on 4.11.94 Gaby

for

Yanga
10/11/94
DEPUTY REGISTRAR
JUDICIAL DEPARTMENT

CENTRAL ADMINISTRATIVE TRIBUNAL,
BANGALORE BENCH.

ORIGINAL APPLICATION NO. 648/ 1994

WEDNESDAY, THE 26TH DAY OF OCTOBER, 1994

SHRI V. RAMAKRISHNAN ... MEMBER (A)

SHRI A.N. VUJJANARADHYA ... MEMBER (J)

Walter D' Souza,
S/o Late Benjamin D' Souza,
aged 50 years,
working as Accountant,
Head Post Office,
Mangalore - 575 001. ... Applicant

(By Advocate Shri A.R. Holla)

Vs.

1. Director General (Posts),
Dak Bhavan,
New Delhi - 110 001.
2. Chief Post Master General,
Karnataka Circle,
Bangalore-560 001. ... Respondents

(By Advocate Shri G. Shanthappa, Central
Government Standing Counsel)

ORDER

Shri V. Ramakrishnan, Member (A)

The applicant herein is aggrieved by the fact that he was not given promotion under the time bound one promotion scheme with effect from 30.11.1983 but was given the same only with effect from 1.12.92. He entered service in the postal department in clerical grade in July, 1963 and while he was working in Shimoga Division, he volunteered for Army Postal Service and joined the field service in March 1976. He continued in the Army Postal Service till he reverted back from the Army Postal Service in September, 1991. When he was



working under the Army Postal Service, the Director General, Posts and Telegraphs, New Delhi had issued a letter addressed to all Heads of Circles (Postal) dated 17.12.83 which contained the instructions with regard to the implementation of the time bound one promotion scheme. Para 21 of the scheme states that those officials belonging to the Accountant cadre who had opted for the scale of Rs. 380 - 620 would not be eligible for the benefit of the scheme on the ground that 380 - 620 is not a basic grade. The scheme however provided that they may be given an option to revert to the time scale of pay plus special pay retrospectively with effect from the date they chose the scale of pay of Rs. 380 - 620. So far as the applicant is concerned, we are informed by the department that on his passing the relevant examination, the applicant moved into the pay scale of Rs. 380 - 620 with effect from November, 1978. This scale was declared defunct in February, 1981 and was replaced by the time scale of Rs. 260 - 480 plus special pay. However, officials who were in the grade of 380 - 620 were given an option to retain the ^{MA} ~~different~~ scale and the applicant had opted for retention of 380 - 620 scale even after this scale was abolished in 1981. If the applicant had opted for the scheme, he would have got the benefit of the scale of 425 - 640 (as it existed then) with effect from 30.11.83 as he had been functioning as LDC from 1963 ^{MA} onwards, subject to his pay being refixed on the scale of 260 - 480 plus special pay. The applicant contends that he was not aware of the contents of the scheme which was communicated by the Director General, P&T vide his letter dated 17.12.83 as he was serving in the Army Post Office. He further submits that he came to know about this scheme only when he was asked by the SSPD, Shimoga Division in June, 1986 as to whether he had submitted the option for TBOP. He,

however, took up the matter of condonation of delay in exercising his option by his letter dated 27.1.89 addressed to the Post Master General, Karnataka Circle, Bangalore as at Annexure A-1. In this letter, he refers to the SSPD, Shimoga letter dated 24.6.86 and also the PPO letter dated 24.7.86 where certain clarifications were asked for by the 56 APD/ 99 APD to the Administration Cell, C/o APS Centre. He had requested in his letter dated 27.1.89 as at Annexure A-1 that delay in exercising the option may be condoned and he may be allowed to get the benefit of the scheme. The Post Master General, Karnataka Circle had taken up the case with the Director General, P&T, New Delhi by letter dated 8.3.89 where he had recommended that it would be reasonable to condone the delay (Annexure A-2). We also notice that there were some reminders to this letter by the PMG, Karnataka. We are informed by the department that the Department of Post and Telegraph, New Delhi intimated PMG, Karnataka Circle wide letter dated 16.9.91 that the general question of giving fresh option to Accountants in different cadre is under consideration and it was therefore not possible to process the individual case of the applicant as requested by him. This has apparently not been formally communicated to the applicant. The applicant however received a further letter dated 14.10.93 from the Chief Post Master General, Karnataka Circle as at Annexure A-9 which promoted him under TBOP scheme only with effect from 1.12.92 and not with effect from 30.11.83. On receipt of this letter dated 14.10.93, the applicant has approached us in March, 1994 seeking relief that he should be given the benefit under TBOP scheme with effect from 30.11.83.

2. We have heard Shri A.R. Holla for the applicant and Shri G. Shanthappa for the respondents.

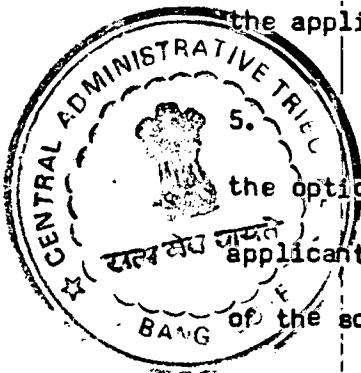
3. The main ground taken by the department for not giving the benefit of the TBOP scheme from an earlier date was that the applicant had not exercised the option in time. The department also contend the fact that the PMC, Karnataka Circle had taken up the case with the Department of Posts for condonation of delay and had recommended the same would not automatically mean that the delay will stand condoned. The position ^{which} now emerges is that the department is examining the general question to give fresh option to Accountants who were in different cadres who had not exercised their options earlier and that they have turned down the case of the applicant on the ground that they would not entertain any individual case.

4. The stand of the applicant is that he had not exercised his option in time for the reason that he was not aware of the scheme as the same was not communicated to him. There seems to be some force in this contention as is seen from the letter of Chief Post Master General, Karnataka Circle dated 8.3.89 as at Annexure A-2. The clarification ^{in July 1986} from Army Post Office to the Administrative Head in APS Centre reads as follows:

"1. P&T Admn. Cell
C/o APS Centre
Kampte APO

- For info wrt their letter no. PT Cell/8367736/PA 3 dtd 07 Jul 86. Please intimate whether the option can be exercised now and whether the pay now drawn will be protected before fixation in the scale of 425 - 640. If the official opts for LSG General line whether he loses Accountant Post and has to work in General side. Also the fixation on option to LSG General line may please be intimated for information of the official."

From this it is quite clear that the local army unit was not aware of the contents of the TBOP scheme as the points raised by them are covered by the instructions contained in letter of the DG, P&T dated 17.12.83 and it was not necessary to seek such clarification. It is reasonable to assume ^{that} when the local office themselves did not know about the contents of the scheme, they would not have communicated the same to the applicant. It substantiates the applicant's contention that he was not aware of the scheme in time. The other point that arises for consideration is that the applicant admittedly came to know that there is such a scheme when he was informed by the SSPD, Shimoga by the letter dated 24.8.86. However, he represented for condonation of delay by letter dated 27.1.89 as at Annexure A-1. The learned counsel for the applicant submits that even though he was asked to opt for that scheme, he was not aware of the details of the scheme as he was posted in the interior area by the army authorities during the relevant period and as such he could not follow up the matter immediately after June, 1986. We accept this explanation of the applicant.



In the light of foregoing we hold that delay in exercising the option of TBOP scheme was not due to lapse on the part of the applicant and that it is only proper that he should get the benefit of the scheme from an earlier date. Keeping in view the relevant circumstances, we direct that the applicant should be brought over to the scale of Rs. 425 - 640 (as it existed at that time) with effect from 30.11.83 in accordance with the provision of the scheme contained in the letter dated 17.12.83. However, ^{his pay} ~~he~~ pay would be fixed notionally with effect from the date of his eligibility ^(i.e. 30.11.83) but the financial benefit would be available to him with effect from 1.12.92. In the normal

course the financial benefits would have been given to him with effect from 27.3.93 which is one year prior to the date of filing of the present application. However, considering the fact that the applicant had been promoted to the time bound one promotion scheme with effect from 1.12.92, we direct that the financial benefit should be given to him with effect from 1.12.92.

6. With the above observation the application is disposed of finally with no order as to costs.

Sd-

Sd-



(V. Ramakrishnan)
Member (A)

TRUE COPY

Section Officer
Central Administrative Tribunal
Bangalore Bench
Bangalore