

CENTRAL ADMINISTRATIVE TRIBUNAL,**CHANDIGARH BENCH**

O.A.No.060/00780/2014

Decided on: 13.08.2015

**CORAM: HON'BLE MR. SANJEEV KAUSHIK, MEMBER (J) &
HON'BLE MS. RAJWANT SANDHU, MEMBER (A)**

Parshotam Lal son of Shri Sarup Lal,

aged 51 years,

Gramin Dak Sewak Branch Post Master,

Karari B.O. in account with Datarpur Sub Post Office

(Dasuya Sub Division), Punjab.

... **Applicant****Versus**

1. Union of India through the Secretary, Ministry of Communications & Information Technology through Secretary-cum-Director General, Department of Posts, Dak Bhawan, New Delhi-110001.

2. Chief Postmaster General, Punjab Circle, Sandesh Bhawan, Sector 17E, Chandigarh-160017.

3. Senior Superintendent of Post Offices, Hoshiarpur Division, Hoshiarpur-146001.

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Respondents

Present: Mr. V.K. Sharma, Counsel for the applicant.
Mr. Ram Lal Gupta, counsel for Respondents

O R D E R(oral)
HON'BLE MR. SANJEEV KAUSHIK , MEMBER (J)

1. The applicant has challenged memorandum dated 26.12.2013 (A-1) to the extent the respondents have fixed his pay in new transferred post of GDSBPM on the minimum of the pay scale causing him loss in pay and seniority and to issue direction to the respondents to protect his pay at the same stage he was drawing from the transferred place of posting etc.
2. It is not in dispute that the applicant while working as GDSMC in Branch Post Office, Fatehpur, Sub Office Datarpur since 1.10.1986 and since 1.6.2012, he started working as BPM Karari. He was getting Time Related Continuity Allowance (for short "TRCA") at the stage of Rs.8,000/- (or so). He made a request in October, 2013 that he may be appointed as BPM Karari provided his pay is not reduced and seniority may also be accepted. However, his request for appointment at new place was accepted with the condition that he will not claim repatriation and protection of pay and his TRCA will be fixed at the minimum of the TRCA Slap at new place. The claim of applicant in short is that his pay could not be reduced at new place, even if the transfer had taken place on his own request.
3. At the time of issuance of notice, learned counsel for the applicant had made a statement at the bar that the case of the applicant is covered by the view taken by Full Bench of Ernakulum Bench in the case of R.P. Hrishikeshan Nair & Others Vs. Union of India & Others, 2009 (2) CAT 281.
4. Learned counsel for respondents sought time on 17.4.2015 to file an additional affidavit as to whether the departmental instructions regarding payment of TRCA on transfer have been

revised in view of the Full Bench decision in O.A.No. 280/2006 and that he was also to respond to a query as to why an employee should be transferred on lower TRCA in view of the said judgment, even if the transfer is made on his own request.

5. Despite taking few opportunities, the promised affidavit has not come to be filed by the respondents till date.
6. The on defence taken by the respondents in the reply is that the applicant was made aware in advance that his pay would be fixed at minimum of TRCA and as such he cannot question the said condition in a court of law.
7. However, today when the case was heard at length, the learned counsel for the respondents could not dispute that the issue qua protection of pay on transfer in the same recruiting unit and other issues as well has been set at rest in the case of **R.P. Hrishikeshan Nair & Others** (supra). The para relevant for decision of this case is reproduced herein below :-

“37. Now, as regards transfer within the same recruitment unit, vide para 4 of D.G Posts letter No.19-51/ED. Trg. dated 11.2.1997 (supra) it has been made clear that if the placement of the ED Agent is from one Post Office to another within the same recruiting unit, the same will be treated as a transfer and the ED Agents will not forfeit his past service for any purpose. Thus, transfer of a GDS from one post to another within the same recruitment unit will not forfeit his past service for any purpose which include the increments drawn by him in the previous post. It is in such circumstance that this Tribunal allowed the O.A.394/2003 (supra) and directed the respondents to restore the TRCA of the applicant. We respectfully affirm the above decision of the Division Bench.”

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8. In view of the conceded position that the case in hand is covered on all fours by the view taken in the case of R.P. Hrishikeshan Nair (supra), this case is allowed and disposed of accordingly. The impugned order, Annexure A-1, to the extent it denies benefit to the applicant is quashed and set aside. The respondents are directed to extend the necessary benefits to the applicant by passing a reasoned and speaking order within a period of three months from the date of receipt of a certified copy of this order.
9. The parties are left to bear their own costs.

**(SANJEEV KAUSHIK)
MEMBER (J)**

**(RAJWANT SANDHU)
MEMBER (A)**

Place: Chandigarh
Dated: 13.08.2015

HC*