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**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

Original Application No.180/01144/2014

Friday, this the 29th day of November, 2018

CORAM:

**HON'BLE Mr.E.K.BHARAT BHUSHAN, ADMINISTRATIVE MEMBER
HON'BLE Mr.ASHISH KALIA, JUDICIAL MEMBER**

C.Sudhakaran,
Aged 59 years,
S/o Govindankutty Nair,
GDS Packer, Thrissur Medical College, PO,
Thrissur, residing at Chemmanur House,
Vilapaya,
Medical College PO, Thrissur.Applicant

(By Advocate Mr.Shafik M.A.)

V e r s u s

1. The Union of India,
Represented by the Director General Posts,
Department of Posts,
New Delhi – 110 011.

2. The Chief Postmaster General,
Kerala Circle, Trivandrum 695 033.

3. The Senior Superintendent of Post Offices,
Ernakulam Division, Ernakulam 682 011.Respondents

(By Sr.CGSC, Mr.N.Anil Kumar for Respondents)

This application having been heard on 21st November 2018, the Tribunal on 29th November, 2018 delivered the following :

ORDER

HON'BLE MR.E.K.BHARAT BHUSHAN, ADMINISTRATIVE MEMBER

OA No.1144/2014 is filed by Shri C.Sudhakaran, who is presently working

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as GDS Packer at Thrissur Medical College Post Office. He was working as GDS Special Postmaster at Velappaya EDSO under Wadakkancheri TC HO which has been departmentalised as per Memo dated 21.10.2008 of the 3rd Respondent with effect from 31.10.2008 F/N. The said Memo copy of which is available at Annexure A1, indicates this fact. At that time the applicant had been working as Special Postmaster drawing TRCA in the scale of 2125-50-3125 (pre-revised). As a result of the Departmentalisation the applicant was down graded to the level of GDS Mail Packer with lower TRCA, re-designating the post of GDS SPM and was granted TRCA in the revised scale of Rs.3635-65-5585. He complains that no protection of pay as per the instructions of the DG posts was granted to him, reckoning the stage in which he was drawing the scale of pay in the SPM Cadre.

2. A copy of last pay slip of September 2008 of the applicant is produced at Annexure A2. The pay of Sub Postmasters had been revised later and his erstwhile counterparts who are still working in the post of SPM had been granted TRCA at the scale of Rs.4575-85-7125 and are taking home Rs.9960/- round about. A copy of the payslip for the month of October, 2011 of GDSSPM of the nearby post office Attur is produced at Annexure A3. The grievance of the applicant is that, had he continued in the same post of SPM, he would also have been drawing the same pay. He complains that despite the fact that there were vacancies available in the division, the respondents had not cared to offer any of those posts to the applicant.

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3. Aggrieved by this the applicant had submitted a representation to the 2nd respondent on 13.1.2012, a copy of which is available at Annexure A4. The applicant complains that the representation is yet to be responded to by the 2nd respondent.

4. As grounds while admitting that the Departmentalisation of the Post Office where he was working as SPM was necessitated by the exigencies of work, he points out that the said Departmentalisation has come to the great disadvantage of the applicant. The downgrading of the post of SPM and placement of the applicant in a lower post without protecting his pay is incorrect and arbitrary.

5. He calls to his assistance the orders of this Tribunal OA No.270/2006 and connected cases, pronounced by Full Bench of this Tribunal which is quoted:

49. Now, the entire situation would be summarised and references duly answered as under:

(a) As per the rules themselves, in so far as transfer within recruitment unit and in the same post with identical TRCA, there shall be no depletion in the quantum of TRCA drawn by the transferred individual.

(b) In so far as transfer from one post to the same post with Diff. TRCA and within the Same Recruitment Unit, administrative instructions provide for protection of the same vide order dated 11th October, 2004, subject only to the maximum of the TRCA in the transferred unit (i.e. maximum in the lower TRCA).

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(c) In so far as transfer from one post to a Different Post but with same TRCA and within the same Recruitment Unit, as in the case of (a) above, protection of TRCA is admissible.

(d) In respect of transfer from one post to another within the same recruitment unit but with different TRCA (i.e. from higher to lower), pay protection on the same lines as in respect of (b) above would be available.

(e) In so far as transfer from a post carrying lower TRCA to the same category or another category, but carrying higher TRCA, the very transfer itself is not permissible as held by the High Court in the case of Senior Superintendent of Post Offices vs. Raji Mol, 2004 (1) KLT 183. Such induction should be as a fresh recruitment. For, in so far as appointment to the post of GDS is concerned of being in a position to arrange for some accommodation to run the office and with certain income from other sources and if an individual from one recruitment unit to another is shifted his move would result in a vacancy in his parent Recruitment Unit and the beneficiary of that vacancy would be only a local person of that area and not any one who is in the other recruitment unit. Thus, when one individual seeks transfer from one post to another (in the same category or other category) from one Recruitment Unit to another, he has to compete with others who apply for the same and in case of selection, he shall have to be treated as a fresh hand and the price he pays for the same would be to lose Protection of his TRCA.

The applicant submits as he is entitled to protection under Clause (a) and (b) of the said judgment.

6. The respondents have filed a detailed reply statement. It is admitted that the applicant had been working as GDS SPM at VelayappaEDSO under the Thrissur Division. The said Post Office was upgraded into Departmental Class III Delivery Sub Office named as Thrissur Medical College Post Office with effect from 31.10.2008. The applicant who had been working as GDS SPM at the time of upgradation was addressed by the Senior Superintendent of Post Offices, Thrissur Division to ascertain whether he was prepared to

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be accommodated in the vacant post of BPM, Tirur BO as the post of GDSSPM would be rendered surplus. Thus the contention of the applicant that he was not offered an SPM's post when Velappaya Post Office was Departmentalised, is patently untrue. The applicant on getting this intimation submitted a representation dated 17.9.2007 expressing his willingness to work as GDS SPM of the same Post Office rather than be posted out as GDS MP, Tirur. A copy of the said representation made on 17.9.2007 is available at Annexure R3(b).

7. As per instructions contained in the Directorate letter dated 11.10.2004 the stage of TRCA already drawn can be protected only up to the maximum of the present TRCA. The allowances drawn by the applicant before and after upgradation of the Velappaya EDSO to Thrissur Medical College DSO is detailed as follows in the reply statement:

1	Designation of the applicant as on 01.01.2006	GDSSPM, Velappaya EDSO
2	Scale of pay and TRCA as on 01.01.2006	Rs.2475/ in the scale 2125-50-3125
3	Revised pay as on 01.01.2006 on implementation of Natarajmoorthy committee report	Rs.5765/ in the scale of 4575-85-7125
4	Date of redeployment of the official	31.10.2008 as GDSMP, Thrissur Medical College
5	Pay drawn as on 30.10.2008 (Pre-revised)	Rs.2625 in the scale (2125-50-3125)
6	Pay fixed as on 31.10.2008 (Pre revised scale of GDSMP, Velappaya SO)	Rs.1600 + Personal Pay Rs.1025 in the scale (Rs.1220-20-1600)
7	Revised pay as on 30.10.2008 (in the Revised scale) on implementation of Natarajmoorthy committee report	Rs.5935 in the scale (4575-85-7125)

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8	Pay fixed as on 31.10.2008 (in the Revised scale) on implementation of Natarajmoorthy committee report	Rs.4370 (2870-50-4370)
9	Pay fixed as on 31.10.2008 based on work load as per the statistics compiled after upgradation of Velappaya EDSO	Rs.5585/ in the TRCA slab of 3635-65-5585 (Maximum TRCA Applicable to GDSMP)
10	Pay of the applicant refixed with effect from 31.10.2008 onwards on the basis of the work load	Rs.5585/

8. The applicant had submitted a representation to Postmaster General, Central Region requesting to protect his allowance and the Postmaster General by Order dated 20.1.2009 had issued instructions to protect the current allowance of the GDS without any drop in emoluments. Consequently orders to that effect were issued by the then Senior Superintendent of Post Officers, Wadakkancheri, Thrissur Division.

9. As per these instructions the allowance of the applicant was fixed as Basic TRCA i.e. Rs.1600 + 1025/ which is personal allowance in the scale of pre-revised scale of Rs.1220-20-1600 which was Rs.2625 TRCA drawn while the applicant was working in the post of GDS SPM + 5% increase with effect from 31.10.2008 i.e. the date on which upgradation of Velappaya EDSO took place. On implementation of GDS Committee recommendation, the TRCA of the applicant has been refixed in the just replacement scale of GDS SPM which is his former post at 4575-85-7125 as redeployment of his post was done on public interest.

10. The demand of the applicant is countered by the respondents citing various reasons about why he is ineligible for the demand that he has claimed. Firstly it is argued that the official has lost the link with GDSSPM with effect from 31.10.2008. Secondly, all the GDSSPM posts were downgraded to GDSBPM with effect from 1.5.2010 and the TRCA of those officials who held such posts as on 1.5.2010 only were protected. The applicant was not holding the post of GDSSPM as on 1.5.2010. Thirdly the applicant at the time of upgradation of Velappaya EDSO had been offered the post of GDSBPM, Tirur BO, but he had opted for the post of GDSMP Thrissur Medical College SO as per his own volition.

11. The Director General, Department of Posts, Estt Division as per Circular dated 11.10.2004 has issued direction for fixation of Time Related Continuity allowance (TRCA) for Gramin Dak Sevaks in case of reduction of work load/redeployment. A copy of the same is available at Annexure R3(d). It stipulates that in case of redeployment of staff the stage should be protected in such a way that the GDS may be brought from the second TRCA to the first TRCA by protecting the stage of the first TRCA to the maximum of the 1st TRCA. In this case this has been scrupulously followed.

12. The applicant had called to his assistance the orders of the Full Bench of this Tribunal in OA No.270/2006. The applicant's case comes under para

49(d) of the said order of the Tribunal. The applicant had been appointed as GDSMP a post with lower TRCA than the GDPSPM. The Time Related Continuity allowance of the applicant is protected in the maximum of TRCA of the GDSMP post. Hence the action of the respondents cannot be faulted. The judgment is produced at Annexure R3(i). It is further submitted that in accordance with the same the applicant's pay had been protected in the maximum TRCA of GDSMP post which is Rs.5585 in 3635-65-5585 which is maximum TRCA applicable to GDSMP.

13. Heard Shri Shafik for the applicant and Shri Anil Kumar, Sr.CGC for the respondents. The claim of the applicant is that he had suffered a loss when the post he was holding had been Departmentalised. He had not been offered any post at the same level despite vacancies of Branch Postmasters which were available in contrast with others who were GDS like the applicant. He was forced to work at a lower level. The action of the respondents is violative of the Full Bench decision of this Tribunal in OA referred to.

14. On examining the case, it is found that the applicant had chosen to remain as GDSMP at the same Post Office out of his own volition. Also the department had taken care to protect his TRCA to the level it was possible. The respondents have relied upon the judgment in the said OA wherein it was ruled as follows:

(iii) In case of redeployment of staff, the stage should be protected, as indicated in (ii) above. However, protection of Time Related Continuity Allowance is not extended to those surplus Gramin Dak Sewaks who are redeployed on their own specific requests. The TRCA of such GDS may be fixed at the minimum of the 1st or 2nd TRCA corresponding to the actual workload.

15. On an examination of the facts of the case and the reply provided by the respondents, we are not of the view that this is a fit case for the Tribunal to interfere with. The applicant had been given the benefits which he was entitled to in consequence to his earlier post being Departmentalised. The OA is dismissed for want of merit. No costs.

(Dated this the 29th day of November 2018).

(ASHISH KALIA)
JUDICIAL MEMBER

(E.K.BHARAT BHUSHAN)
ADMINISTRATIVE MEMBER

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List of Annexures in O.A. No.180/01144/2014

1. **Annexure A1** – True copy of the Memo No.A 344 dated 21.10.2008 issued by the 3rd Respondent.
2. **Annexure A2** – True copy of the Pay slip of the month of September,

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2008 of the Applicant.

3. **Annexure A3** – True copy of the pay slip of the Month of October 2011 of GDSSPM, Attur.
4. **Annexure A4** – True copy of the Representation dated 13.1.2012 submitted before the 2nd Respondent.
5. **Annexure R3(a)** – True copy of the letter dated 26.07.2007.
6. **Annexure R3(b)** – True copy of the representation dated 17.09.2007 and its English Translation.
7. **Annexure R3(c)** – True copy of the memo dated 21.10.2008.
8. **Annexure R3(d)** – True copy of the circular dated 11.10.2004.
9. **Annexure R3(e)** – True copy of the memo No.A/344 dated 02.07.2010.
10. **Annexure R3(f)** - True copy of the letter dated 14.01.2010.
11. **Annexure R3(g)** –True copy of the of the memo dated 22.4.2010.
12. **Annexure R3(h)** – True copy of the memo dated 25.05.2010.
13. **Annexure R3(i)**– True copy of the order dated 14.11.2008 in OA No.270 of 2006 of this Hon'ble Tribunal.
14. **Annexure R3(j)**– True copy of the Rule 86 of the Financial Hand Book Volume I General, chapter IV.
