

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

Original Application No.180/00757/2016

Friday, this the 27th day of July, 2018

C O R A M :

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

T. U. Skaria,
Sub Post Master (Retired),
Elanji Post Office, Muvattupuzha H.O.,
Residing at Thoduvayil, Pazhoor East,
Piravom P.O., Pin – 686 664.Applicant

(By Advocates – Mr.Vishnu S Chempazhanthiyil)

V e r s u s

1. Union of India represented by the Secretary & Director General, Department of Posts, Dak Bhavan, New Delhi – 110 001.
2. The Chief Postmaster General, Kerala Postal Circle, Thiruvananthapuram – 695 033.
3. The Postmaster General, Central Region, Kochi – 682 020.
4. The Senior Superintendent of Post Offices, Aluva Division, Aluva – 683 101.Respondents

(By Advocate – Mr.P.R.Sreejith,ACGSC)

This Original Application having been heard on 19th July 2018, the Tribunal on 27th July 2018 delivered the following :

O R D E R

Per : Mr.E.K.BHARAT BHUSHAN, ADMINISTRATIVE MEMBER

The grievance of the applicant arises on account of rejection of his request for rectification of anomaly relating to grant of BCR and fixation consequent on implementation of 5th Pay Commission. The reliefs sought in the O.A are as follows :

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1. Call for the records leading to the issue of Annexure A-9 and set aside Annexure A-9.

2. Direct the respondents to rectify the anomaly in fixation of pay in respect of the applicant who was promoted under BCR as on 1.1.2006 and was granted revised pay under CCS (RP) Rules, 1997 w.e.f. 1.1.2006.

3. Direct the respondents to grant fixation of pay at Rs.6050/- in the scale of Rs.5000-8000 w.e.f 1.1.1996 on a notional basis and regulate consequential fixation of pay and effect revised pensionary benefits on such basis and sanction arrears of pension at the earliest.

4. Direct the respondents to grant BCR to the applicant w.e.f date of completion of 26 years of service and direct the respondents to effect fixation of pay accordingly and revise pensionary benefits of the applicant on that basis and grant arrears of pension on that basis at the earliest.

5. Any other further relief or order as this Hon'ble Tribunal may deem fit and proper to meet the ends of justice.

6. Award the cost of these proceedings.

2. The applicant started his career as Postal Assistant under the respondents with effect from 15.10.1969. He was granted TBOP with effect from 15.10.1985 and retired from service on 31.12.2007 after rendering 38 years of service.

3. When the case was finally heard with Shri.Vishnu S Chempazhanthiyil representing the applicant and Shri.P.R.Sreejith, ACGSC for the respondents, it was submitted by both sides that the only issue remaining to be adjudicated is the date of grant of BCR. Biennial Cadre Review had been instituted for providing relief to the employees through a review done once in two years under which the incumbent of an existing post would be enabled to draw pay in higher scale on completion of 26 years of service. The scheme had come into effect from 1.10.1991 and employees who would have completed 26 years of service would become

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eligible for the benefit. In this case the applicant completes 26 years of service with effect from 15.10.1995 and claim for BCR ought to have been granted to him with effect from 15.10.1995. The only issue remaining to be considered in this O.A is whether the benefits of BCR Scheme dated 22.9.1992 are to be granted from the date of completion of 26 years of satisfactory service or from crucial dates of 1st January or 1st July.

4. The applicant has quoted a decision of the Full Bench of this Tribunal at Chandigarh in **Piran Ditta & 25 Ors. v. Union of India & Ors. (O.A.No.7/JK/2003)** which held that “*benefit under BCR Scheme dated 11.10.1991 has to be granted from the date one completes 26 years of satisfactory service.*” This Tribunal itself in O.A.No.180/112/2014 had followed the same view and this had been confirmed by the Hon'ble High Court of Kerala.

5. The respondents, on the other hand, have maintained that as per BCR Scheme in order to provide promotion on functional justification the crucial dates are 1st January or 1st July of the year wherein the officials can be given the benefit if they had completed 26 years of service in the basic grade at any time during the six months prior to the above two dates.

6. We would like to follow the decision which has been adopted by this Tribunal itself in the identical case in O.A.No.180/112/2014. The applicant here is eligible for BCR benefit on the date he has completed 26 years of satisfactory service ie. with effect from 23.10.1995. The O.A is disposed of

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accordingly declaring that the applicant is entitled to get the financial upgradation under BCR with effect from 23.10.1995. But the arrears that he will be entitled to will be confined to the period of three years immediately prior to the date of filing of this O.A. It is ordered accordingly. No order as to costs.

(Dated this the 27th day of July 2018)

**ASHISH KALIA
JUDICIAL MEMBER**

**E.K.BHARAT BHUSHAN
ADMINISTRATIVE MEMBER**

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List of Annexures by the applicant in O.A.No.180/00757/2016

1. **Annexure A-1** – True copy of representation dated 09.12.2009 to the Accounts Officers, Office of PMG, Central Region, Kochi.
2. **Annexure A-2** – True copy of representation dated 04.12.2010 to the Director of Accounts (Postal).
3. **Annexure A-3** – True copy of communication No. C/PEN/613 dated 07.04.2010 issued by the 4th respondent.
4. **Annexure A-4** – True copy of communication No. A&P/13-28/09 dated 07.01.2010 issued by the 3rd respondent.
5. **Annexure A-5** – True copy of communication No. B1/BCR/DLG dated 13.10.2010 issued by the 4th respondent.
6. **Annexure A-6** – True copy of communication No. A&P/16-40916.6.08 dated 28.06.2011 issued by the 3rd respondent.
7. **Annexure A-7** – True copy of communication No. A&P/16-409/2007 dated 03.07.2013 issued by the 3rd respondent.
8. **Annexure A-8** – True copy of communication No. B1/BCR/DLG dated 24.08.2015 issued by the 4th respondent.
9. **Annexure A-9** – True copy of communication No. A&P/16-409/2007 dated 15.09.2015 issued by the 3rd respondent.
10. **Annexure A-10** – True copy of memo No. B/EB dated 06.02.1996 issued by the 4th respondent.
11. **Annexure A-11** – True copy of memo No. ST/8-3/96 dated 16.10.1996 issued by the 2nd respondent.
12. **Annexure A-12** – True copy of order in O.A. No. 180/00112/2014 of the Hon'ble Tribunal.
13. **Annexure A-13** – True copy of communication No. BB/71/V dated 27.04.2012 issued by the Superintendent, Alappuzha Division, Alappuzha.

List of Annexures by the respondents in O.A.No.180/00757/2016

1. **Annexure R-1** – A true copy of Calculation Sheet of pay fixation done under CCS (Revised Pay) Rule 1997 taken from service book of the applicant.
2. **Annexure R-2** – A true copy of Ministry of Finance (MOF) Gazette Notification G.S.R. 569 (E) dated 30.09.97.

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3. Annexure R-3 – The true copy of the order dated 04.09.2013 in OA No. 520/2012 of this Hon'ble Tribunal.
