

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

Original Application No.180/00972/2015

Wednesday, this the 27th day of February, 2019

CORAM:

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

Shri Unnikrishnan Nair K.,
Mail Guard, HRO, RMS TV Division,
Thiruvananthapuram – 695 036,
Residing at Thiruvathira,
T.C.7/1294(1),
Kootamvila Road,
Vattiyoorkavu,
Thiruvananthapuram -695 013.

....Applicant

(By Advocate Mr. Vishnu S.Chempazhanthiyil)

V e r s u s

1. The Union of India,
represented by its Director General
& Secretary, Department of Posts,
Dak Bhavan,
New Delhi – 110 116.
2. The Chief Postmaster General,
Kerala Circle,
Thiruvananthapuram – 695 033.
3. The Director of Postal Services,
Office of CPMG,
Kerala Circle,
Thiruvananthapuram – 695 033.

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4. The Senior Superintendent,
RMS TV Division,
Thiruvananthapuram – 695 036.Respondents

(By Mr.N.Anil Kumar, SCGSC for Respondents)

This application having been heard on 20th February, 2019 the Tribunal on 27.02.2019 delivered the following :

ORDER

HON'BLE Mr.ASHISH KALIA, JUDICIAL MEMBER

OA No.972/2015 is filed by Shri Unnikrishnan Nair K., seeking the following reliefs:

- 1) Call for the records leading to issue of Annexure A4 and set aside Annexure A4.
- 2) Direct the respondents to extend the benefit of Annexure A3 clarification to the applicant.
- 3) Direct the respondents to count the broken spells of adhoc promotion of the applicant as Mail Guard for increment purpose, as clarified in Annexure A3.
- 4) Any other further relief or order as this Hon'ble Tribunal may deem fit and proper to meet the ends of justice.
- 5) Award the cost of these proceedings to the applicant.

2. The applicant presently working as Mail Guard in RMS TV Division since 2009, prior to engagement as Mail Guard the applicant was working as Mail Man. The applicant had been granted various broken spell of officiating adhoc promotion as Mail Guard from 1995 onwards. The Department of Personnel and Training, the nodal Ministry issued a clarification on 12.12.2013 clarifying that the broken spell of the adhoc promotion can be

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counted for the increment. This was the general clarification making it clear the above provisions for broken spells in adhoc officiation in the higher post can be counted for increment, continue to apply for increment under Rule 10 of CCS (RP) Rules, 2008. This happened because after VI Pay Commission the concept of Pay Band was introduced and naturally difference in pay and officiating pay prior to 1.1.2006 and after 1.1.2006 extend the benefit of Annexure A3 on the ground officiating spell of applicant prior to 1.1.2006 and therefore there is difference in pay sanctioned to the applicant while officiating spell as Mail Guard. Aggrieved by this he approached this Tribunal for redressal of his grievance.

3. Reply is filed by the respondents and submitted that the applicant had earlier officiated as Mail Guard for the following spells 18.02.1995 to 25.03.1996, 03.06.1996 to 11.10.1996 and 01.01.1997 to 30.06.1998. It is submitted that OM dated 12.12.2013 at Annexure A3 issued by DOPT is an extension of earlier OM issued on 9.3.2000, wherein the issue of counting of officiating/broken period of service for increment proposes had been clarified. In the case of the applicant though the officiating spell were in the same post (Mail Guard) the pay fixed on promotion on regular basis on 20.11.2009 is at Rs.9910/- in the Pay Band of Rs.5200-20200, hence the pay drawn by the applicant at the same stage on 20.11.2009 and in fact it is in Pay Band as with effect from 01.01.2006 Pay Bands were introduced by the VIth CPC. Hence the two conditions are not satisfied if the promotional pay

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is fixed at the same stage as fixed on the last officiating period, the officiating spell should be against the same post. According to the respondents, these two conditions are not satisfied, thus they have rightly rejected the case of the applicant.

4. Heard the Counsel for the parties at length and in order to resolve the issue in the present application we may look into the Circular issued by the DOPT dated 12.12.2013.

5. The matter has been considered in consultation with the Department of Expenditure and it is clarified that the provisions of FR 26 which provide for counting of broken spells in officiation in the higher post for increment, continue to apply for increment under Rule 10 of CCS (RP) Rules, 2008. This Rule clearly manifest that broken spell of officiation of higher post shall be counted for the purpose of increment. The only objection the respondents have taken in the reply is that on promotion the pay is fixed at the same stage as fixed on the last officiating period, will not hold much water, as the applicant officiated prior to implementation of VI Pay Commission recommendation i.e., 1.1.2006, his pay can be notionally fixed as if he had worked on officiating basis after 1.1.2006. Though it is admitted fact, the second condition the officiating spell is against the same very post of Mail Guard, so in our considered view the respondents should have fixed the pay by giving the benefit of broken spell of officiation as if he had officiated at

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present. There is merit on the side of the applicant herein. Thus we are of the view that the present OA should be allowed and hence allowed. The applicant is entitled for the benefit of Annexure A3 clarification and broken spell on promotion as Mail Guard for the purpose of increment. OA is allowed with no order as to costs.

**(ASHISH KALIA)
JUDICIAL MEMBER**

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

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List of Annexures in O.A. No.180/00972/2015

1. **Annexure A1** – True copy of the order No.BII/MG Exam/07 dated 18.11.2009 issued by the 4th respondent.
2. **Annexure A2** – True copy of the representation dated 20.10.2014 to the 3rd respondent.
3. **Annexure A3** – True copy of the OM No.19/2/2013-Estt(Pay-I) dated 12.12.2013 issued by the Government of India, Ministry of Personnel, Public Grievances & Pension.
4. **Annexure A4** – True copy of the order No.ST/18/17/2011 (Pt) dated 30.01.2015/2-2-2015 issued by the 2nd respondent.
5. **Annexure R1(a)** – True copy of Om No.6-5/98/PA(IC)/KW/616 TO 652 dated 9-3-2000.
