

**Central Administrative Tribunal
Ernakulam Bench**

**CP/180/00014/2018 in OA 79/2011, CP 180/00015/18 in O.A 1151/12,
CP180/00016/18 in O.A 31/12 & CP 180/00013/18 in O.A 1150/12**

Friday, the 14th day of December, 2018

CORAM

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

HON'BLE MR.ASHISH KALIA, JUDICIAL MEMBER

CP/180/00014/2018 in OA 79/2011

K.S.Beena, Sub Postmaster

Malayattoor P.O

(Presently Sub Postmaster Manjapra Post Office)

Residing at Pattathil House

Manickamangalam P.O, Kalady

Ernakulam District 683 574

Petitioner

(By Advocate: Mrs. Rekha Vasudevan)

Versus

1. Smt.Sarada Sambath
Age and Husband's name not known to the
Petitioner, The Chief Postmaster General
Kerala Circle, Thiruvananthapuram
Kerala 695 001
 2. Shri.K.K.Devis, age and father's name not
known to the Petitioner, The Senior Superintendent of
Post Offices, Aluva Division, Kerala 683 101
 3. Shri.G.Rajeev, the Director (Staff)
Department of Post, Ministry of Communications & IT
New Delhi
- ... Respondents

(By Advocate: Mr.E.N.Hari Menon, ACGSC)

CP(C) No.00013/18 in O.A No.1150/12

M.J.Leela, Sorting Assistant

Sub Record Office

Railway Mail Service

Ernakulam Division

Residing at Thadavanal House

Arakulam P.O, Idukki 685 591

.....

Petitioner

(By Advocate – Mrs.Rekha Vasudevan)

V e r s u s

- 1 Smt.Sarada Sambath
Age and Husband's name not known to the Petitioner
The Chief Postmaster General
Kerala Circle
Thiruvananthapuram, Kerala – 695 001
 2. Shri.K.Narasimha Naicken,
Age and Father's name not known to the petitioner
The Superintendent of Post Offices
Railway Mail Service, Ernakulam Division
Ernakulam 682 011
- **Respondents**

(By Advocate – Mr.S.Ramesh,ACGSC)

CP(C) 180/00016/18 in O.A 31/2012

Kuruvilla Varghese
Sorting Assistant MACP II
Sub Record Office, RMS TV Division
Kottayam, Residing at Vattamala (H)
Velloor P.O, Pampady, Kottayam

..... **Petitioner**

(By Advocate – Mrs.Rekha Vasudevan)

V e r s u s

- 1 Smt.Sarada Sambath, Age and Husband's name not known to
the Petitioner, The Chief Postmaster General
Kerala Circle, Thiruvananthapuram, Kerala 695 001
 2. Shri.L.K.Gangadharan, Age and Father's name not known
To the Petitioner, The Senior Superintendent of Post Offices
RMS TV Division,
Thiruvananthapuram, Kerala
- **Respondents**

(By Advocate – Mr.V.A.Shaji,ACGSC)

CP(C) 180/00015/18 in O.A 1151/2012

Nixon John, Sub Postmaster
Thodupuzha East (presently Sub Postmaster,
Muthalakodom), Department of Post,

Idukki Division, Residing at Palammattam House
Chittoor, Puthupariyaram P.O
Vengalloor, Idukki – 685 608

..... **Petitioner**

(By Advocate – Mrs.Rekha Vasudevan)

V e r s u s

1 Smt.Sarada Sambath, Age and Husband's name not known to
the Petitioner, The Chief Postmaster General
Kerala Circle, Thiruvananthapuram, Kerala 695 001

2. Shri.L.K.Lathika Kumari, Age and Father's name not known
to the Petitioner, The Superintendent of Post Offices
Idukki Division,
Kerala 685 584

..... **Respondents**

(By Advocate – Mr.Sreenath.S,ACGSC)

These CP(C) having been taken up on 7th December, 2018, this Tribunal delivered the following order on 14.12.2018.

ORDER

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

CP/180/00014/2018 in OA 79/2011, CP 180/00015/18 in O.A 1151/12, CP180/00016/18 in O.A 31/12 & CP 180/00013/18 in O.A 1150/12 are dealt with through a common order as the issues involved, both in terms of law as well as facts, are similar in nature. However, as a leading case, facts as well as references as contained in CP(C) No.180/00014 of 2018 have been taken for the purpose of discussion.

2. These Contempt Petitions are filed against the failure on the part of the respondents to comply with the directions in O.A Nos.79 of 2011, 119 of 2011, 988 of 2011, 31 of 2012, 1150 of 2012, 1151 of 2012 and 1014 of 2010

(common order).

3. Counting of service rendered by the petitioners under the Reserve Trained Pool scheme for the purpose of seniority, benefits accruing due to financial upgradations and other consequential benefits are the matters involved in these cases. By way of background, it may be stated that the Reserve Trained Pool (RTP for short) had been introduced as a system by the respondents with intent to form a reserve pool, amounting to 50% of the vacancies in each recruitment unit. Such a pool would be prepared, personnel imparted training and categorised as trained reserve candidates to meet future and current urgent requirements of manpower in RMS Offices. The RTP candidates form a pool of trained manpower similar to that of wait listed candidates, but with an assurance of regularisation against future vacancies. In view of the imposition of ban on direct recruitment from 1984 to 1990, these RTP candidates could not be regularised against any of the vacancies that arose during the above period and it was only in 1990 that these vacancies were filled up by absorption from among the RTP pool.

4. Aggrieved by the uncertainties involved in this scenario and their claim to be regularised against vacancies which existed from 1984 onwards, the applicants in the above referred O.As had approached this Tribunal and obtained an order on 01.10.2013, the operative part of which directed as follows: -

“(a) Respondents shall work out the vacancies that arose

from 1984 onwards, which could not be filled up on account of the ban on recruitment.

(b) RTP candidates on the basis of their year of recruitment, coupled with the order of merit, shall be accommodated notionally against such vacancies that were lying unfilled from 1984 onwards.

(c) It is from the date on which these applicants could be deemed to have been placed against such vacancies that the period of 16 years of service for grant of TBOP benefits shall be worked out.

(d) On completion of 16 years of such service, they would be deemed to have been granted TBOP benefits and the pay in the higher scale shall be fixed.

(e) Arrears shall be worked out in respect of these cases and the same shall be payable to the applicants concerned.

(f) In so far as MACP is concerned, the period of 20 years for 2nd MACP shall be reckoned only from the date of regular appointment and those who are entitled to 2nd MACP financial benefits accordingly shall be afforded the same, if not already done. ”

5. In view of the delay in implementing the decision, the petitioners moved Contempt Petitions before this Tribunal. This prompted the respondents to approach the Hon'ble High Court of Kerala in OP 89/2014. Subsequently, the OP (CAT) No.89/2014 was dismissed by the Hon'ble High Court through an order dated 17.3.2017 (Annexure P-2) upholding the orders of this Tribunal. Annexure P-2 was taken up before the Hon'ble Supreme Court in SLP(Civil) Diary No.25442/2017 and the Special Leave Petition too stands dismissed vide Annexure P-3. The petitioner has moved the present CP(C) against the continued failure on the part of the respondents to comply with the directions of this Tribunal which have attained finality.

6. Smt.Rekha Vasudevan appearing on behalf of the petitioners in the CP(C)s argued at length about the manifestly illegal stand of the respondents in

delaying and refusing to implement the directions of this Tribunal.

7. A series of affidavits have been filed by the respondents narrating various steps being taken in compliance with the orders of this Tribunal. Learned counsel for the respondents drew our attention pointedly to the last affidavit filed. As per Annexure R-5 accompanying the affidavit, Smt.K.S.Beena stands at the 30th position of the merit list. It is stated in the same document that based on the recommendation of DPC, 13 RTP Postal Assistants could be notionally accommodated against the vacancies that arose from 1984 onwards.

8. Further, in the Minutes of the DPC Meeting which met on 20.3.2018, it is stated as follows:

“ As per the directions of CPMG, Kerala letter No.ST/5-2/OA 1014/11(Pt) dated 9.3.2018, committee examined the relevant available records in this connection.

i) Merit list of RTP candidates recruited during the year 1982 & 1983 was prepared based on the gradation list of the PAs in the Division for the period from 1983 to 1990. Final merit list has been communicated vide Memo no.B/SDPAs dated 2.3.2018 by registered post to all ex RTP candidates recruited in this division to represent, if there is any dispute in the list. No representation has been received yet. Later, the same list mentioning the recruitment year, was sent to CO for publication in the website and the same is marked as Annexure I.

ii) List of all officials appointed (direct and departmental) during the period from 1984 to 1990 is prepared based on the gradation list of PAs in the Division and roster (Direct appointment/promotion) for the period from 1984 to 1990 and the same is marked as Annexure AII. No officials were appointed during the

year 1984 and 1985.

iii) The list of the details of vacancy from 1984 onwards is made based on the gradation lists, pension registers, punishment registers etc and the same is marked as Annexure AIII. Vacancy for the period from 1984 to 1989 was calculated based on the vacancy calculation sheet sent to CO from the Division for the period from 1983 to 1989.

iv) Details of reduction of posts due to TBOP implementation were collected from the Inspection Report of DPS, Central Region, for the year 1984 available in the Order book and establishment registers and the same is marked as Annexure IV.

5. The Committee examined all the above mentioned Annexures I to IV with the relevant records and plotted the RTP candidates notionally against the vacancy from 1984 onwards as detailed below.

1) 1984: Total vacancy as per Calculation Sheet for the year 1984 is 9 (Departmental – 5 and Direct – 4)
No posting was done during the year. Out of 13 posts as shown in Annexure IV, 9 posts are adjusted due to TBOP implementation.

2) 1985: Total vacancy as per Calculation Sheet for the year 1985 is 7 (4 vacancies adjusted against TBOP Reduction and Balance to be filled is 3).

Departmental - 2 Filled – 0

Direct - 1 Filled - 0 ”

9. In short while estimating 13 posts, only 4 were available to accommodate RTP candidates in 1984 and 3 in 1985. Accordingly, the respondents, quoting from the copy of the merit list of RTP candidates of the Aluva Division given at Annexure R-5/Annexure I, submit that they could accommodate only 13 candidates in all i.e candidates who were appointed on regular basis till 28.11.1989. The list reads as follows:

“ MERIT LIST OF RTP CANDIDATES OF ALUVA DIVISION

Sl.No.	Name of the candidate	Recruitment half year	Date of regular appointment	Remarks
1.	Beena Paul	First half 1982	05.11.1986	
2.	Vinodini PR	First half 1982	05.12.1986	Transferred to Ernakulam Division under Rule 38
3.	Lissy Cherian	First half 1982	28.11.1987	Transferred to Ernakulam Division under Rule 38
4.	Sarala VB	First half 1982	29.11.1987	
5.	Tessy Antony K	First half 1982	23.01.1988	
6	Thankamony K.M	First half 1982	28.07.1988	Dismissed from service on 19.03.2001
7	Teresa KJ	First half 1982	02.01.1989	Transferred to Ernakulam Division under Rule 38
8	Daisy John	First half 1982	01.06.1989	Transferred to Ernakulam Division under Rule 38
9	Molly TV	First half 1982	11.08.1989	
10	Retnakala K	First half 1982	06.10.1989	Transferred to Ernakulam Division under Rule 38
11	Mini Mangala S	First half 1982	10.07.1988	Relieved to join as PA SBCO, Wadakkanchery
12	Vanajakumary NS	First half 1982	24.10.1989	
13	Thilothamma PK	First half 1982	28.11.1989	Transferred to Ernakulam Division under Rule 38
14	Leela PT	First half of 1982	29.05.1990	
15	George Sam Issac	First half of 1982	29.05.1990	
16	Josy Peter	First half of 1982	29.05.1990	

17	Presanna Kumari M	First half of 1982	29.05.1990	
18	Prasanna P	First half of 1982	29.05.1990	
19	Valsa OJ	First half of 1982	29.05.1990	
20	Premalatha P	First half of 1982	29.05.1990	Transferred to Ernakulam Division under Rule 38
21	Ramachandran M	First half of 1982	29.05.1990	
22	Sabira MA	First half of 1982	29.05.1990	
23	Kanakom CM	First half of 1982	29.05.1990	
24	Sherly George	First half of 1982	29.05.1990	
25	Jayasree SR	First half of 1982	29.05.1990	Voluntary Retirement from 1.2.20
26	Padmakumari KS	First half of 1982	29.05.1990	
27	Howabeevi TP	First half of 1982	29.05.1990	
28	Molly MJ	First half of 1982	29.05.1990	Rosily George
29	Rosily George	First half of 1982	29.05.1990	
30	Beena KS	First half of 1983	29.05.1990	
31	Jaya TN	First half of 1982	29.05.1990	
32	Ushakumari N.A	First half of 1983	29.05.1990	
33	Umadevi TP	First half of 1983	31.05.1990	Transferred to Ernakulam Division under Rule 38

”

10. Shri.Rekha Vasudevan appearing for the petitioner argued strongly that

the respondents have thwarted the directions of this Tribunal by subterfuge. They have declared many of the existing vacancies as abolished on account of the economy drive and under an opaque term “TBOP implementation”. She stresses the fact that the respondents are unable to explain how implementation of TBOP could lead to abolition of posts. She contested the stand of the respondents that there are only 13 vacancies available.

11. ACGSC appearing on behalf of the respondents submitted that the respondents have acted fully in compliance with the directions of this Tribunal. They have correctly estimated the vacancies available, and have taken steps to pre-date the appointments of many persons from the RTP list, notionally as directed. He submits that out of the 16 vacancies, 13 vacancies were adjusted against the post identified for the Time Bound One Promotion and the remaining 3 vacancies have been added to the total unfilled vacancies and accordingly the RTP candidates were plotted against the total vacancies with respect to the RTP seniority list. The petitioner does not figure against the above vacancies being ranked only at the 30th position in the RTP merit list and he further submits that no mistake has occurred on the part of the respondents in calculation of vacancies and in implementing Annexure P1 order of this Tribunal as evident from Annexure R-5.

12. The scope before a Tribunal or a Court in a Contempt Proceeding is circumscribed by the literal content of the direction in the original case. The operative portion of the order in the O.A has been quoted and the controversy is clearly in respect of the first part of this direction which is relating to the

estimation of vacancies that arose from 1984 onwards. There has been no direction as to how this has to be done and as to what relevant aspects the respondents were to consider while doing so. From this perspective, the explanation offered in the final affidavit filed by the respondents is relevant. In line with the priorities of the department, they had proceeded with a significant reduction in the sanctioned strength upon implementation of TBOP scheme and conversion of the Sorting Section resulting in surplus staff in RMS. They maintain that RTPs were given appointment against available vacancies, which were presumably arrived at after the reductions referred to and in May 1990, when the ban on appointments were removed, accommodated *en mass* by creating supernumerary posts. They lay stress on the fact that only 13 RTPs could have been notionally accommodated, once the reduction of posts on implementation of TBOP became a reality.

13. CP/180/00014/2018 in OA 79/2011, CP 180/00015/18 in O.A 1151/12, CP180/00016/18 in O.A 31/12 & CP 180/00016/18 in O.A 31/12 are all filed against the inaction of the respondents in complying with the directions in respective Original Applications and the Orders in the Original Applications are one and the same as in O.A 79/2011.

14. Heard Mrs.Rekha Vasudevan, learned counsel for the petitioners in CP(C)s, Mr.E.N.Hari Menon, ACGSC, learned counsel for the respondents in CPC() 14/18, Mr.S.Sreenath,ACGSC, learned counsel for the respondents in CP(C) 15/18, Mr.S.Ramesh,ACGSC, learned counsel for the respondents in CP(C) 13/18 and Mr.V.A.Shaji,ACGSC, learned counsel for the respondents in

15. The Petitioners in the other CP(c)s are also aggrieved by the failure on the part of the respondents to assign them to various years between 1984-1990 on notional basis to the large number of posts that they claim, had arisen. The response of the respondents has been to the effect that the available posts were limited on account of abolition of posts resulting from TBOP implementation. In other words, the contention of the respondents in all these CP(C)s is the same as in CP(C) 14/18.

16. M.A No.365/18 for accepting affidavit and M.A No.492/18 for accepting affidavits are closed.

17. As mentioned already, the scope in a Contempt Petition is a limited one. There was a direction to estimate the vacancies and the respondents have done so after taking into account the government policy available at that time. We see that significant reduction was introduced in the manpower by way of cost cutting and also due to implementation of TBOP Scheme. The available posts thus dwindled into a small number and the respondents accommodated the petitioners on the basis of their position in the merit list. The direction of the Tribunal was to estimate the number of vacancies correctly and the respondents did so after reducing the number that come to be abolished. We do not discern any non-compliance of this Tribunal's direction on the part of the respondents here.

18. Facts being so, we are of the view that there is no merit in CP/180/00014/2018 in OA 79/2011, CP 180/00015/18 in O.A 1151/12, CP180/00016/18 in O.A 31/12 & CP 180/00013/18 in O.A 1150/12 and they are dismissed. Notices stand discharged.

(ASHISH KALIA)
JUDICIAL MEMBER

(E.K.BHARAT BHUSHAN)
ADMINISTRATIVE MEMBER

SV

C.P(C) No.180/00014/2018

Annexure P1 - True copy of the order dated 1.10.2013 in O.A No.79 of 2011 of this Tribunal

Annexure P2 - True copy of the judgment dated 17.3.2017 in O.P (CAT) No.89 of 2014 of the High Court

Annexure P3 - True copy of the order dated 10.11.2017 as SLP(Civil) Dairy No.25442/2017 of the Hon'ble Supreme Court

Annexure P4 - True copy of the letter dated 13.12.2017 addressed by the Director (SPN) New Delhi to 1st respondent

Annexure R-1 - True copy of letter No.ST/5-2/OA 1014/11 dated 25.1.2018 issued by the office of the 1st respondent

Annexure R-2 - True copy of the report of the Committee dated 30.1.2018

Annexure R-3 - True copy of the letter No.ST/5-2/OA 1014/11 dated 31.1.2018

Annexure P5 - True copy of the Work Hours statement for Operative Staff in the Department of Posts

Annexure P6 - True copy of the Statement showing calculation of vacancies for the year 1980 in the Department of Posts

Annexure P7 - True copy of the Order No.ST/5/1/83/B/III dated 23.4.1986 issued for the 1st respondent

Annexure R-4 - A true copy of Memo no.B/SDPAs dated 9.5.2018 issued by SSPOs, Aluva

Annexure R-5 - A true copy of minutes of the Departmental Screening Committee which shows the details of vacancies that arose from 1984 onwards.

CP(C) 180/00013/18 in O.A 1150/12

Annexure P1 - True copy of the order dated 1.10.2013 in O.A No.1150 of 2012 of this Tribunal

Annexure P2 - True copy of the judgment dated 17.3.2017 in OP(CAT) No.89 of 2014 of the Hon'ble High Court

Annexure P3 - True copy of the order dated 10.11.2017 in SLP(Civil)

Dairy No.25442/2017 of the Hon'ble Supreme Court

Annexure P4 - True copy of the letter dated 13.12.2017 addressed by the Director (SPN) New Delhi to 1st respondent

Annexure R-1 - A true copy of Directorate letter No.18-04/2017-SPB-III dated 13.12.2017

Annexure R-2 - A true copy of Circle office letter No.ST/5-2/OA 1014/11 dated 25.1.2018

Annexure R-3 - A true copy of Committee report dated 30.1.2018

Annexure R-4 - A true copy of circle office letter no.ST/5-2/OA 1014/11 dated 31.1.2018

Annexure R 10(a) & (b) - True copy of minutes of the Departmental Screening Committee dated 3.4.2018 in r/o RMS TV Dn and RMS EK' Dn

CP 180/00016/18 in O.A 31/12

Annexure P1 - True copy of the order dated 1.10.2013 in O.A No.31 of 2012 of this Tribunal

Annexure P2 - True copy of the judgment dated 17.3.2017 in O.P(CAT) No.89 of 2014 of the High Court

Annexure P3 - True copy of the order dated 10.11.2017 in SLP (Civil) Dairy No.25442/2017 of the Hon'ble Supreme Court

Annexure P4 - True copy of the letter dated 13.12.2017

Annexure R1 - True copy of Directorate Letter No.F.No.18-04/2017-SPB-II dated 13.12.2017

Annexure R2 - True copy of letter No.ST/5-2/OA 1014/11 dated 25.1.2018 issued by the office of the 2nd respondent

Annexure R3 - True copy of the report of the Committee dated 30.1.2018

Annexure R-4 - True copy of the letter dated 31.1.2018

Annexure R-5 - True copy of the minutes dated 3.4.2018

Annexure R-6 - True copy of the order No.B-34/RTPdated 22.6.2018 issued by the SSRM, RMS 'TV' Division

CP/180/00015/18 in O.A 1151/12

Annexure P1 - True copy of the order dated 1.10.2013 in O.A.No.1151 of 2012 of this Tribunal

Annexure P2 - True copy of the judgment dated 17.3.2017 in O.P(CAT) No.89 of 2014 of the Hon'ble High Court

Annexure P3 - True copy of the order dated 10.11.2017 in SLP (Civil) Dairy No.25442/2017 of the Hon'ble Supreme Court

Annexure P4 - True copy of the letter dated 13.12.2017 addressed by the Director (SPN) New Delhi to 1st respondent.

Annexure R1 - A true copy of Merit list of the RTP candidates of Idukki Division

Annexure R2 - A true copy of date of occurrences of all 12 vacancies

Annexure R3 - A true copy of Memo No.BI/RTP/Dig dated 2.7.2018 issued by SP, Idukki

Annexure R4 - A true copy of Memo No.BI/RTP/Dig dated 2.7.2018 issued by SP, Idukki

Annexure R5 - A true copy of Memo No.BI/RTP/Dig dated 2.7.2018 issued by SP, Idukki

Annexure R6 - A true copy of Memo No.BI/RTP/Dig dated 2.7.2018 issued by SP, Idukki

Annexure R7 - A true copy of minutes of the Departmental Screening Committee (DSC) which shows the details of vacancies that arose from 1984 onwards.

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