

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
HYDERABAD BENCH: HYDERABAD**

**OA/021/1023/2017, OA/021/1024/2017, OA/021/1025/2017, OA/021/1026/2017,  
OA/021/1027/2017 & OA/021/1028/2017**

**Reserved on: 01.04.2019  
Order pronounced on: 02.04.2019**

Between:

M. Anjaiah,  
S/o. M. Aluwalu, aged 60 years,  
Occ: BPM, Nadiksingaram BO,  
a/w Yacharam SO,  
Hyderabad T.S.

...Applicant in OA 1023/2017

E. Janga Reddy,  
S/o. Chenna Reddy, aged 49 years,  
Occ: BPM, Chowderpally BO,  
a/w Yacharam SO,  
Hyderabad, T.S.

...Applicant in OA 1024/2017

T. Jangaiah,  
S/o. T. Ramaiah, aged 52 years,  
Occ: BPM, Mondigowrelly BO,  
a/w Yacharam SO,  
Hyderabad, T.S.

...Applicant in OA 1025/2017

B. Anji Reddy,  
S/o. B. Narsi Reddy, aged 47 years,  
Occ: BPM, Nallavelly BO,  
a/w Yacharam SO,  
Hyderabad, T.S.

...Applicant in OA 1026/2017

S. Satyanarayana,  
S/o. Laxmipathi, aged 48 years,  
Occ: BPM, MG Gowrelly BO,  
a/w Yacharam SO,  
Hyderabad, T.S.

...Applicant in OA 1027/2017

B. Surender Reddy,  
S/o. Anantha Reddy, aged 59 years,  
Occ: BPM, Meerkhanpet BO,  
a/w Yacharam SO,  
Hyderabad, T.S.

...Applicant in OA 1028/2017

**And**

1. The Union of India rep. by  
The Director General,  
Department of Post,

Dak Bhavan, Sansad Marg,  
New Delhi – 110 001.

2. The Chief Postmaster General,  
Telangana Circle, Abids,  
Hyderabad – 500 001, T.S.
3. The Postmaster General,  
Head Quarters Region, Abids,  
Hyderabad – 500 001, T.S.
4. The Senior Superintendent of Post Offices,  
Hyderabad South East Division, Abids,  
Hyderabad – 500 002, T.S.
5. The Head Postmaster,  
Station Kachiguda HO,  
Hyderabad – 500 002, T.S. ... Respondents in all the O.As

Counsel for the Applicants	...	Mr. B. Gurudas
Counsel for the Respondents	...	Mrs. K. Rajitha, Sr. CGSC
		Mr.A. Vijaya Bhaskar Babu, Addl, CGSC
		Mrs. Megha Rani Agarwal, Addl. CGSC
		Mrs. B. Gayatri Varma, Sr. PC to CG
		Mrs. D. Shobha Rani, Addl. CGSC.
		Mr. K. Venkateswarlu, Addl. CGSC

***CORAM:***

***Hon'ble Mr. B.V. Sudhakar*** ... ***Member (Admn.)***

***ORDER***

***{As per Hon'ble Mr. B.V. Sudhakar, Member (Admn.)}***

2. The OA is filed for the sudden reduction of TRCA (Time Related Continuity Allowance) without any notice and orders from a competent authority. The issue, relief sought and the respondents being one and the same, a common order is issued.

3. Applicants are working as Grameen Dak Sewak Branch Postmasters (GDSBPM) in the respondents organisation for nearly two decades. The pay of a GDSBPM, which is termed as TRCA, depends on the work load of the Branch Post office which the GDSBPM is heading. Dept. of Posts has introduced many new

schemes resulting in the work load of the Branch Post Offices increasing enormously. With the increase of the workload, TRCA of GDSBPM should increase, as per the version of the applicants. Instead it was reduced in 2016, all of a sudden by the respondents without issue of notice and evaluating the work load as per norms. The reduction in TRCA drawn by the Branch Post Masters is given here under :

S.No	Name of the B.O	Original TRCA in Rs	Reduced TRCA in Rs	Difference
1	M. Anjaiah	13,067	11,143	1,924
2	E. Janga Reddy	12,877	10,771	2,106
3	T. Jangaiah	13,067	11,361	1,706
4	B. Anji Reddy	12,401	10,771	1,630
5	S. Satyanarayana	13,067	7,831	5,236
6	B. Surender Reddy	12,732	10,771	1,961

Due to the stated reduction in work load respondents decided to reduce the allowances and ordered recovery of excess payments made by mistake. Applicants have represented on various dates but of no avail. Despite representations, when respondents commenced recovery of the alleged excess payments, applicants approached this Tribunal and as an interim relief the recovery was stayed vide orders dated 22.11.2017.

4. The contentions of the applicants are that reduction of TRCA has been ordered without issue of notice and assessing the work load as required under the relevant rules. The applicants further claim that the additional work done by them has not been taken into consideration while working out the work load. The instruction of Postal Directorate contained in letter dated 15.10.2012 have been violated. Even the recovery was given effect to after a year by the respondents. If the recovery were to be effected immediately applicants would have approached this Tribunal much earlier. Further, the alleged overpayments made is not

because of the fault of the applicants and that the respondents failed to follow instructions circulated in DG Post letter dt. 18.10.2012 wherein clear guidelines were issued to be careful in following the rules so that there is no loss to the public exchequer. Applicants assert that the recovery goes against the Judgment of the Hon'ble Apex Court in Rafiq Masih case. Applicants have also cited orders of this Tribunal in OAs 1525/2012, 131/2015 and 449/2015 in support of their cause.

5. Respondents in their reply statement intimate that the work load of the Branch Post Offices is evaluated once in every 3 years. Accordingly the work load was assessed for the year 2014-15 in May 2015 and found that there is drop in the work load. A report was submitted to the competent authority who has ordered in May 2015 for improving the work load. Again statistics were taken from June 2015 till March 2016 for four quarters, which were duly signed by the applicants and the Sub Divisional Inspector for taking up review of TRCA. Even by the latest statistics the work load did not improve substantially. A show cause notice was accordingly issued to the applicant in August 2016 for revising the TRCA . As there was no representation from the applicants to the show cause notice revision of TRCA of the applicants, as per Postal Directorate letter dt 9.10.2009, was effected in Sep 2016. However, respondents, by mistake, have drawn the pre-revised TRCA from October 2016 to August 2017 resulting in excess payment of TRCA. Nevertheless, on detection of the error revised TRCA from October 2017 was being paid and the excess paid was ordered for recovery @ Rs 3000 per month. Applicants represented against the same and the pay disbursing officer was ordered in Nov 2017 to recover the excess payments in 10 monthly

instalments to lessen the burden of recovery. However, before such orders could be given effect to, applicants have filed the OA. Respondents cited the decision of the Hon'ble Ernakulam bench of this Tribunal in OA 428 of 2013 and of this Tribunal in OA 825 of 2014 to support their decision.

6. Heard both the counsel and went through the documents and material papers submitted, in detail.

7. I) The wages paid to the Gramin Dak Sewak Branch Post Masters is a Time Related Continuity allowance. As the nomenclature indicates, the pay and allowances to be paid depend on the time for which the GDSBPM works. In other words it is based on the number of hours for which the GDSBPM works. The work load is assessed triennially. Respondents have taken up such an exercise in 2014-15 and found that there was a dip in the work load. As claimed by the respondents, there are orders from the Postal Directorate to revise TRCA based on workload. It could be downward or upward. However, when there is a downward revision there is a specific order dt 15.10.2012 of the Postal Directorate, as to the measures to be taken in such an eventuality. The directions contained in the cited letter are as under:

“ In the event of drop in the work load of the BPM to that of lower slab protection of allowance (TRCA) at the existing slab of TRCA of GDS-BPM would be provided for an year there by giving an opportunity to the GDS-BPM to improve the work load to the original level. On completion of this one year a special review will be conducted to assess the work load of the Branch Postmaster and if the work load after review is found to be at a reduced level the allowance will be reduced to the corresponding TRCA slab.”

It is seen from the reply statement that the respondents, for the year 2014-15, have assessed the work load and advised the applicants to improve the work load

in May 2015. Having advised they should have waited till May 2016 and thereafter taken statistics for four quarters commencing from 6/2016 till 3/2017, to see whether there is any improvement in the work load as per Postal Directorate order cited supra. Instead, respondents have taken statistics for the four quarters ending in 6/2015, 9/2015, 12/2015 and in 3/2016. This is contrary to the Postal Directorate order referred to. If the respondents fail to follow their own orders then who will is a million dollar question to be answered. Hon'ble Apex Court has taken serious notice of the violation of rules in a catena of judgments. A few are extracted below to drive home the point that the respondents cannot afford to disobey their own rules.

*"The Hon'ble Supreme Court in **T.Kannan and ors vs S.K. Nayyar (1991) 1 SCC 544** has held that "Action in respect of matters covered by rules should be regulated by rules". Again in **Seigal's case (1992) (1) supp 1 SCC 304** the Hon'ble Supreme Court has stated that "Wanton or deliberate deviation in implementation of rules should be curbed and snubbed." In another judgment reported in (2007) 7 SCJ 353 the Hon'ble Apex court held " the court cannot de hors rules".*

Therefore, the action of the respondents in reducing the TRCA is in clear violation of the Supreme Court directions.

II) Besides, respondents admitted that they have made a mistake in paying the pre-revised TRCA for the period October 2016 to August 2017. Such a mistake has resulted in excess payment. For the mistake of the respondents can the applicants made to suffer is something which the respondents need to introspect. Nevertheless, Hon'ble Supreme Court observations in a number of cases answers this question splendidly as under:

*"(i) The Hon,ble Apex Court in a case decided on 14.12.2007 (**Union of India vs. Sadhana Khanna**, C.A. No. 8208/01) held that the mistake of the department cannot*

recoil on employees. In yet another case of ***M.V. Thimmaiah vs. UPSC***, C.A. No. 5883-5991 of 2007 decided on 13.12.2007, it has been observed that if there is a failure on the part of the officers to discharge their duties the incumbent should not be allowed to suffer.

(ii) It has also been held in the case of ***Nirmal Chandra Bhattacharjee v. Union of India, 1991 Supp (2) SCC 363*** by the **Hon'ble** Apex Court that "The mistake or delay on the part of the department should not be permitted to recoil on the appellants."

Therefore, the mistake committed by the respondents should not recoil on to the applicants. Hence, action of the respondents is against the legal principle laid down by the Hon'ble Supreme Court.

III) Moreover, as per observations of the Hon'ble Apex Court in Rafiq Masih case any excess payment made by mistake should not be recovered from Group C and Group D employees. Therefore recovery ordered by the respondents is also against the well settled principles of law. The applicants have neither misrepresented nor misguided the respondents for effecting the alleged excess payments made. There is no undertaking placed on record that the applicants will repay such excess payments if detected later by the respondents. If this be so, respondents ordering recovery is contrary to law.

IV) In similar cases this Tribunal in OAs 1525/2012, 131/2015 and 449/2015 for similarly situated employees has granted the relief of setting aside reduction of TRCA ordered by the same respondents. Ld. counsel for the applicants states that the orders have been implemented. Having done so, if the respondents discriminate amongst persons similarly situated, in matters of concessions and benefits, then the same would directly infringe the constitutional provisions enshrined in Art. 14 and 16 of the Constitution.

Therefore, similar relief has to be obviously extended to the applicants because they are similarly situated employees as per Hon'ble Supreme Court judgments and as per the observation of the 5<sup>th</sup> Pay Pommission as stated below:

i) **Amrit Lal Berry vs Collector Of Central Excise, (1975) 4 SCC 714 :**

“We may, however, observe that when a citizen aggrieved by the action of a Government Department has approached the Court and obtained a declaration of law in his favour, others, in like circumstances, should be able to rely on the sense of responsibility of the Department concerned and to expect that they will be given the benefit of this declaration without the need to take their grievances to Court.”

ii) **Inder Pal Yadav Vs. Union of India, 1985 (2) SCC 648:**

“...those who could not come to the court need not be at a comparative disadvantage to those who rushed in here. If they are otherwise similarly situated, they are entitled to similar treatment if not by anyone else at the hands of this Court.”

iii) **V CPC report, para 126.5 – Extending judicial decision in matters of a general nature to all similarly placed employees:**

“We have observed that frequently, in cases of service litigation involving many similarly placed employees, the benefit of judgment is only extended to those employees who had agitated the matter before the Tribunal/Court. This generates a lot of needless litigation. It also runs contrary to the judgment given by the Full Bench of Central Administrative Tribunal, Bangalore in the case of **C.S. Elias Ahmed & Ors Vs. UOI & Ors, (OA 451 and 541 of 1991)**, wherein it was held that the entire class of employees who are similarly situated are required to be given the benefit of the decision whether or not they were parties to the original writ. Incidentally, this principle has been upheld by the Supreme Court in this case as well as in numerous other judgments like **G.C. Ghosh V. UOI [(1992) 19 ATC 94 (SC)]**, dt. 20.07.1998; **K.I. Shepherd V. UOI [(JT 1987 (3) SC 600)]**; **Abid Hussain V. UOI [(JT 1987 (1) SC 147)]**, etc. Accordingly, we recommend that decisions taken in one specific case either by the judiciary or the Government should be applied to all other identical cases without forcing other employees to approach the court of law for an identical remedy or relief. We clarify that this decision will apply only in cases where a principle or common issue of general nature applicable to a group or category of Government employees is



concerned and not to matters relating to a specific grievance or anomaly of an individual employee.”

iv) In a later case of **Uttaranchal Forest Rangers’ Assn (Direct Recruit) Vs. State of UP (2006) 10 SCC 346**, the Apex Court has referred to the decision in the case of **State of Karnataka Vs. C. Lalitha, 2006 (2) SCC 747**, as under:

“29. Service jurisprudence evolved by this Court from time to time postulates that all persons similarly situated should be treated similarly. Only because one person has approached the court that would not mean that persons similarly situated should be treated differently.”

Therefore, this Tribunal has to necessarily extend the relief sought by the applicants as they are similarly placed. Besides, in respectful agreement of the findings of a coordinate bench, as directed by the Hon’ble Supreme Court in *SI Roop Lal* case as under, the relief sought has to be extended :

V) Precedents which enunciate rules of law form the foundation of administration of justice under our system. This is a fundamental principle which every Presiding Officer of a Judicial Forum ought to know, for consistency in interpretation of law alone can lead to public confidence in our judicial system. This Court has laid down time and again precedent law must be followed by all concerned; deviation from the same should be only on a procedure known to law. A subordinate court is bounded by the enunciation of law made by the superior courts. A coordinate Bench of a Court cannot pronounce judgment contrary to declaration of law made by another Bench. It can only refer it to a larger Bench if it disagrees with the earlier pronouncement. This Court in the case of [Tribhuvandas Purshottamdas Thakar v. Ratilal Motilal Patel](#), [1968] 1 SCR 455 while dealing with a case in which a Judge of the High Court had failed to follow the earlier judgment of a larger Bench of the same court observed thus:

"The judgment of the Full Bench of the Gujarat High Court was binding upon Raju, J. If the learned Judge was of the view that the decision of Bhagwati, J., in *Pinjare Karimbhai's* case and of Macleod, C.J., in *Haridas`*s case did not lay down the correct Law

or rule of practice, it was open to him to recommend to the Chief Justice that the question be considered by a larger Bench. Judicial decorum, propriety and discipline required that he should not ignore it. Our system of administration of justice aims at certainty in the law and that can be achieved only if Judges do not ignore decisions by Courts of coordinate authority or of superior authority. Gajendragadkar, C.J. observed in [Lala Shri Bhagwan and Anr, v. Shri Ram Chand and Anr.](#)”

Thus, there being a binding precedent laid down by the coordinate bench of this Tribunal it has to be adhered to as per the directions of the Hon’ble Supreme Court cited supra.

VI) Now coming to the cases cited by the respondents in support of their decision the Hon’ble Ernakulam bench decision in OA 428 of 2013 is not applicable to the present case since the applicants therein have reached the maximum of the TRCA and it was a regular review done after 3years. In the instant case the applicants have not reached the maximum of the TRCA and the review involved was a special review to be taken up when the work load was found to decline. Besides, additional work claimed by the applicants has not been considered while working out the work load. Similarly in respect of the OA 825 of 2014 the revision of allowance of the GDSMC was revised because of vigilance check since the applicant therein was asked to carry account bag and stamps and seals separately by unnecessarily travelling twice to the account office. Importantly in this case 34% of the wages of the applicants came from travelling to the account office twice. The unnecessary travel for the second time was curtailed causing reduction of TRCA. Besides, the work of the Non-delivery Sub Post office as a whole reduced as it was made to work continuously instead of split hours, leading to a cascading effect of reduction of allowance of the applicant referred therein. Moreover, applicant in OA 825/2014 is a GDS Mail

carrier whereas the applicants in the present OA are GDS Branch Post Masters with different functions and responsibilities to be discharged. Therefore both the cases cited by the respondents are not relevant to the case on hand since the facts are different. Interestingly in OA 825/2014, respondents have referred to OA 1474/2012 in their reply statement stating that the Tribunal has rightly appreciated and adjudicated the case. OA 1474/2012 dealt with a similar issue and respondents accepted the verdict of the Tribunal. If this be so, they need not have had any hesitation in extending similar relief to the applicants in the instant case. It is surprising that they did not do so. Learned counsel for the respondents has informed that the multiple slabs for pay and allowances of GDS have been rationalised as per recommendation of Kamlesh Chandra report and reduced to 2 slabs from 2018 on wards. The instant case is all about allowances prior to 2018. Besides, it is about assessing work load and to grant TRCA in the appropriate slabs. Important aspect is to follow the rules in placing the applicants in the appropriate slab to which they are eligible. This is where the respondents have missed the bus.

VII) One more perceptible aspect which stares into one's eyes is that the applicants are from the lowest rung of the respondents organisation and hence their pay is relatively low. Learned counsel for the applicants has pleaded that since the recovery is more than Rs 1000 per month it is having a telling effect on the financial health of the applicants. If it were to be as rules they have no grievance. An opportunity if given, applicants would leave no stone unturned to improve the work load of the Branch Post Office and thereby their pay and allowances too. Motivation is the key to enhance productivity. Without giving

such an opportunity and that too against rules is too harsh a measure wherein the Tribunal has to step in and provide succour to the hapless applicants, is the fervent plea of the Ld. counsel for the applicants. There is some weight in the argument in the pleadings of the learned counsel for the applicants as the respondents organisation is an instrumentality of the State and therefore it has to be a model employer. It has to be fair to its employees by extending legitimate benefits to the employees without discrimination in order to motivate them to excel for overall organisational interests. Hon'ble Supreme Court observations about the role of a model employer, extracted herein under are pertinent, calling upon the respondents to be fair and just to its employees:

Bhupendra Nath Hazarika & Anr vs State Of Assam & Ors on 30 November, 2012 in CA Nos 8514-8515 of 2012

48. Before parting with the case, we are compelled to reiterate the oft- stated principle that the State is a **model employer** and it is required to act fairly giving due regard and respect to the rules framed by it. But in the present case, the State has atrophied the rules. Hence, the need for hammering the concept.

49. Almost a quarter century back, this Court in [Balram Gupta vs Union of India & Anr.](#) [1987 (Supp) SCC 228] had observed thus:

“As a **model employer** the Government must conduct itself with high probity and candour with its employees.”

Respondents have atrophied the rule and the interests of the applicants have been adversely effected in the process, which the respondents as a model employer should not have leaned upon. Therefore, even on this count we find the respondents stand untenable.

VIII) Thus based on the aforementioned facts it is vivid that the respondents have acted against rules and law. Therefore their action is arbitrary and illegal. Hence the respondents are directed to consider as under:

- i) Not to make any recovery from the pay and allowance of the applicants.
- ii) Any amount recovered be refunded to the applicants.
- iii) It is open to the respondents to revise allowances of the applicant after scrupulously following the rules on the subject.
- iv) Time calendared to implement the order is 3 months from the date of receipt of this order.

IX) With the above directions the OAs are allowed. No order as to costs.

(B.V. SUDHAKAR)  
MEMBER (ADMN.)

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