

**CENTRAL ADMINISTRATIVE TRIBUNAL  
BANGALORE BENCH**

**ORIGINAL APPLICATION NO.170/01449/2018**

**DATED THIS THE 02<sup>nd</sup> DAY OF JULY, 2019**

**HON'BLE DR.K.B.SURESH, JUDICIAL MEMBER**

**HON'BLE SHRI C.V.SANKAR, ADMINISTRATIVE MEMBER**

O.G.Binnal  
Aged 62 years  
S/o Gangappa  
Retd. BCR Postal Assistant  
O/o the PMG NK Region  
Residing at 'Parvathi Nilaya'  
Plot No.1, 30-D  
2<sup>nd</sup> Main, 1<sup>st</sup> Cross  
Ashokanagar, Sadankeri  
Dharwad-580008.

....Applicant

(By Advocate Sri B.Venkateshan)

Vs.

1. The Union of India  
Represented by the Secretary  
Department of Posts, Dak Bhavan  
New Delhi-110001.
2. The Chief Post Master General  
Karnataka Circle  
Bangalore-560001.
3. The Post Master General  
North Karnataka Region  
Dharwad-580001.

....Respondents

(By Advocate Sri M.Vasudeva Rao)

**ORDER**

**(PER HON'BLE SHRI C.V.SANKAR, MEMBER (ADMN))**

The case of the applicant is that he joined service as Postal Assistant in Raichur Division in the year 1980 and got transferred as LDC to PMG's office, NK Region,

Dharwad on 29.4.1986 at his request. He was placed in TBOP grade w.e.f. 10.10.1996 and BCR grade w.e.f.1.1.2007 and retired from service on 30.6.2016 after putting in about 36 years of service.

2. The applicant submits that on implementation of the TBOP and BCR Schemes which were introduced by the DG, Posts vide OM dtd.22.7.1993(Annexure-A1) by redesignating the LDCs and UDCs into Postal Assistants cadre, it was noticed that the seniors in LDC cadre in the placement of TBOP/BCR grades were denied higher scales of pay admissible under the schemes while some juniors who have come on transfer to administrative offices became eligible for placement into TBOP/BCR grades by virtue of their length of service in the PA cadre. When the service unions took up the matter with the DG Posts to set right the anomalies, the DG Posts reconsidered the aspect and modified the scheme vide OM dtd.8.2.1996(Annexure-A2) with clarifications vide OMs dtd.5.8.1987(Annexure-A3) and 1.1.1998(Annexure-A4) to step up the pay of the seniors in the cadre at par with the date of their juniors.

3. The applicant further submits that the DG Posts vide OM dtd.17.5.2000(Annexure-A5) has withdrawn the benefits of placements of higher pay benefits at par with the juniors. However, the said benefits extended vide OMs at Annexures-A2,3 & 4 have been restored by the OM dtd.8.5.2017(Annexure-A6). Based on the said OMs, the CPMG, Bangalore had suo motu issued orders placing 18 TBOP officials to the BCR grades w.e.f.1.1.1996 vide memo dtd.8.7.1998. But many officials who were not considered for placements in TBOP/BCR grades at par with their juniors, have approached the Tribunal and got such benefits. In the instant case, the applicant is senior to Smt.G.Shylaja in the LDC cadre who also came on

transfer to Dharwad Regional Office. The applicant is at Sl.No.49 while Smt.G.Shylaja is at Sl.No.66 in the cadre gradation list as on 1.7.2010 corrected up to 30.6.2011(Annexure-A7). It could be seen that the applicant is placed in the BCR grade pay of Rs.18,000/- w.e.f. 12.7.2011 while the pay of his junior Smt.G.Shylaja was placed in the BCR grade pay of Rs.18910/- w.e.f. 1.7.2011. Hence the anomaly in pay fixation between the applicant and his junior in BCR grade arose w.e.f.1.7.2011. Therefore, as per the modified scheme at Annexures-A2,3,4 & 6, the applicant is entitled to be granted BCR pay benefits w.e.f. 1.7.2011 with all consequential benefits accruing therefrom. The applicant has submitted his representation on 2.6.2017(Annexure-A8) to the CPMG, Bangalore requesting to prepone his TBOP and BCR benefits from the date of his junior Smt.G.Shylaja was granted such benefits. But the CPMG, Bangalore has rejected the representation vide order dtd.9.3.2018(Annexure-A9). The applicant submits that the matter is covered by the order of this Tribunal in OA.459/2009 decided on 14.10.2011(Annexure-A10) which went upto the Hon'ble High Court in WP.No.63430-431/2012 and the same is dismissed on 25.7.2012 (Annexure-A11) confirming the order of the Tribunal. In other OAs.No.516 & 517/2013 decided on 16.12.2015(Annexure-A12) & OA.No.973/2016 decided on 27.4.2018(Annexure-A13), it has been held that the applicants therein are entitled for grant of stepping up of their pay at par with their juniors. Since the respondents have failed to consider the case of the applicant in a proper perspective, he filed the present OA with a prayer to set aside the Memo No.STA/2-3/BCR-CO/11 dtd. 9.3.2018(Annexure-A9) issued by the CPMG, Bangalore directing the respondents to grant pay benefits from 1.7.2011 the date on which his junior Smt.G.Shylaja was granted such benefits.

4. The respondents, on the other hand, have submitted in their reply statement that the applicant is claiming stepping up of pay/preponement of TBOP/BCR benefits on par with his junior Smt.Shylaja w.e.f. 1.7.2011 and has filed the present OA after a gap of 7 years from the cause of action without any cogent and convincing reasons. The applicant slept over his alleged right years together. Therefore, on the ground of delay alone, the OA is liable to be dismissed.

5. The respondents submit that the applicant joined the service as Postal Assistant in Raichur Division on 10.10.1980. He was transferred to the O/o PMG, NK Region, Dharwad on 29.4.1986 as LDC. He was granted 1<sup>st</sup> financial upgradation under TBOP scheme i.e. on completion of 16 years of service on 10.10.1996 and after completion of 26 years of service on 01.01.2007 he was granted financial upgradation under BCR scheme. The applicant retired from service on 30.6.2016 on superannuation. On introduction of TBOP/BCR schemes in Circle Office, the applicant was re-designated as Postal Assistant (CO) w.e.f. 26.6.1993. The applicant submitted a representation on 2.6.2017 to the CPMG stating that his TBOP and BCR dates may be preponed with reference to his junior Smt.G.Shylaja, in view of the orders contained in Postal Directorate letter dtd.8.5.2017. As per the said letter, only UDCs working in Circle Offices/Regional Offices on or before 26.6.1993 are eligible for placement under TBOP/BCR on par with junior LDC to the respective grade if the LDCs has been brought under transfer under Rule 38 of the P&T Manual Volume IV on or before 26.6.1993 and was working in that cadre as LDC on the crucial date i.e. 26.6.1993 and was still working as such on that date. Since the applicant was working as LDC and not working as UDC on or before 26.6.1993 he is not eligible for placement under TBOP/BCR on par with junior LDC

Smt.G.Shyalaja as per Postal Directorate letter dtd.1.1.1998.

6. The respondents further submit that before 26.6.1993, the administrative offices were having 2 cadres of officials namely UDC and LDC. All the UDCs are enblock senior to all the LDCs. UDCs scale was Rs.1200-2040 and that of LDC was Rs.950-1500. After conversion into PA cadre the seniority of UDCs were affected. The Postal Directorate orders dtd.8.2.1996, 5.8.1997 and 1.1.1998 have mentioned that all the officials such as UDCs in CO and SBCO, LSG will be considered for next higher scale of pay from the dates of their immediate junior become eligible for the next higher scale. In letter dtd.1.1.1998, it is made clear that UDCs working in Circle offices and Regional Offices on or before 26.6.1993 will be entitled for promotion to TBOP/BCR with reference to the date of promotion of LDCs to the respective grade if the LDC has brought on transfer under Rule 38 P&T Manual Vol IV on or before 26.6.1993 and was still working as such on that date. The applicant is demanding stepping up by comparing to his own cadre LDC. As such since the applicant was not UDC as on crucial date, he is not eligible for grant of TBOP/BCR with reference to his junior and that the action of the respondents in rejecting his request is in order.

7. We have heard the Learned Counsel for both the parties and perused the materials placed on record in detail. The issue in this case is in a very small compass. The respondents have introduced the Time Bound One Promotion(TBOP) Scheme and Biennial Cadre Review(BCR) Scheme with a view to improve the promotional prospects of the employees of the Dept. of Posts and the employees were given higher scales of pay on completion of 16 years and 26 years of service respectively. While implementing the scheme it was observed that certain officials in

the cadre of UDCs were given lower scales of pay compared to certain other officials who were in the LDC cadre who were fitted in to higher scales of pay based on their length of service. This created anomaly of the lower grade officials getting higher scales of pay than their seniors in the higher category of posts. With a view to set right this anomaly, Annexure-A2 was passed permitting the officials in the higher category to be considered for next higher scale of pay from the date their immediate juniors became eligible for the next higher scale. On the basis of this order, the applicant claims to be stepped up based on the gradation list as seen at Annexure-A7 where the person at Sl.No.66 is drawing higher scale of pay than him at Sl.No.49. The respondents have rightly rejected his request since both were LDCs and the Sl.No.66 person was brought on transfer to the circle where the applicant was working under Rule 38 of the P&T Manual Volume IV. The applicant was not in the higher category of post on or before 26.06.1993 as provided for in the modification to the scheme dtd.8.2.1996. From the gradation list at Annexure-A7, it is also seen that the person at Sl.No.66 has longer service than the applicant. The respondents have also refuted the claim made by the applicant with respect to the cases cited by him in OAs.No.516 & 517/2013 decided on 16.12.2015 & OA.No.973/2016 decided on 27.4.2018 by this Tribunal. In OA.No.516 & 517/2013, the applicants therein were with the department with as much as 10 years of service less than their alleged junior who had got the TBOP by virtue of his/her completion of 16 years of service in the department whereas the applicants had not completed the required number of years of service. The OA was disposed of with directions to the respondents to consider whether the benefit has been given to similarly situated people and then extend it to the applicants from the date of OA onwards. In the other cited OA.No.973/2016, the issue was different. In those OAs the challenge

was to the order of the respondents dtd.17.5.2000 wherein seniors in the gradation list will not be considered for next higher scale of pay from the date of their immediate juniors who become eligible for next higher grade without completing the prescribed period of service as per the eligibility condition of placement in the higher scale of pay. This particular decision was assailed since TBOP and BCR were basically with respect to the length of service whereas the upgradation permitted vide Annexure-A2 order was for UDCs who happened to draw less pay because of the longer length of service of the junior being given the step up pay. This order of 17.5.2000 was struck down by the several OAs and after traversing through the Hon'ble High Court of Karnataka and Supreme Court, the said order dtd.17.5.2000 has been set aside and the department has also withdrawn the same as can be seen from the order issued by them in this regard on 8.5.2017(Annexure-A6). Hence these cases do not help the case of the applicant. Therefore, the OA is dismissed. No costs.

(C.V.SANKAR)  
MEMBER (A)

(DR.K.B.SURESH)  
MEMBER (J)

/ps/

**Annexures referred by the applicant in OA.No.170/01449/2018**

Annexure-A1: DG's OM No.4-12/88-PE-I(Pt) dt.22.7.1993  
Annexure-A2: DG's OM No.22-5/95-PE.I dtd.8.2.1996  
Annexure-A3: DG's OM No.22-5/95-PE.I dtd.5.8.1997  
Annexure-A4: DG's OM No.22-5/95-PE.I dtd.9.1.1998  
Annexure-A5: DG's OM No.22-6/2000-PE.I dtd.17.5.2000  
Annexure-A6: DG's OM No.22-6/2000-PE.I(Pt) dtd.8.5.2017  
Annexure-A7: Gradation list of CO as on 1.7.2010  
Annexure-A8: Applicant's representation dt.2.6.2017  
Annexure-A9: CPMG's Lr.No.STA/2-3/BCR-CO/11 dt.9.3.2018  
Annexure-A10: CAT BG order dt.14.10.2011 in OA.No.459/2009  
Annexure-A11: HC BG judgment dt.25.7.2012 in WP.No.63430-431/2012 (S.CAT)  
Annexure-A12: CAT BG order dt.16.12.2015 in OA.No.516-17/2013  
Annexure-A13: CAT BG order dt.27.4.2018 in OA.No.973/2016

**Annexures with reply statement:**

-NIL-

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