

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

ORIGINAL APPLICATION NO.170/01536/2018

DATED THIS THE 01ST DAY OF OCTOBER, 2019

HON'BLE DR.K.B.SURESH, MEMBER (J)

HON'BLE SHRI C.V. SANKAR, MEMBER (A)

M. Srinivasa Upadhyaya
S/o Late M.L. Upadhyaya,
Aged about: 64 years,
Retired as supervisor (SBCO)
SSPuram, Mysore
Residing at:
No. 24, 2nd Block,
4th Main, 2nd Cross,
Shakthinagar,
Mysore 570 029
(By Advocate Shri P. Kamalesan) Applicant

Vs.

1. Union of India,
Represented by Secretary,
Department of post,

Dak Bhavan,
New Delhi

2. Chief Post Master General,
Karnataka Circle,
Bangalore 560 001

3. Post Master General,
S.K. Region,
Bangalore 560 001

4. Senior Superintendent of
Post offices,
Mysore Postal Division,
Mysore 570 020Respondents

(By Shri M.V. Rao, Counsel for the Respondents)
ORDER (ORAL)

(HON'BLE DR. K.B. SURESH, MEMBER (J))

Both counsels agree that the matter is covered by the order of the Hon'ble High Court in Writ Petition No. 55123/2014 dated 15.04.2015 which we quote:

“THIS WRIT PETITION IS FILED UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA, PRAYING TO QUASH THE ORDER AT ANNEXURE-A DATED 13-6-2014 MADE IN O.A.NO.1403/2013 PASSED BY THE CENTRAL ADMINISTRATIVE TRIBUNAL, BANGALORE BENCH AND DISMISS O.A.NO.1403/2013 FILED BY THE RESPONDENT.

THIS WRIT PETITION COMING ON FOR PRELIMINARY HEARING, THIS DAY, RAGHVENDRA S. CHAUHAN, J., MADE THE FOLLOWING:

O R D E R

The petitioners are aggrieved by the order dated 13-6-2014, passed by the Central Administrative Tribunal, Bangalore Bench, Bangalore, in O.A. No.1403/2013 and have challenged the same before this Court.

2. *The brief facts of the case are that the respondent Smt. Shylaja Chiplunkar was an employee of the Department of Posts. She had challenged the order dated 14-10-2013 issued by the Chief Post Master General, Karnataka Circle. According to the respondent, in 1993, the Department of posts issued two schemes in order to give benefit to 'C' category employees. These were the Time Bound One Promotion (TBOP) on completion of 16 years of service, and Biennial Cadre Review (BCR) on completion of 26 years of service. However, the implementation of these two schemes led to an anomalous situation where Lower Division Clerks, who had completed the prescribed years of service, were promoted. Consequently, they were drawing salaries higher than their own senior colleagues. In order to ensure parity, the Department of Posts modified the Rules by an order dated 8-2-1996 and subsequently, on 1-1-1998, the Department issued a Circular to further modify the scheme. Thereafter, by order dated 17-5-2000, the Department proceeded to withdraw the orders dated 8-2-1996 and 1-1-1998. Consequently, those officials who were aggrieved by the withdrawal of these orders approached the Court. The dispute was raised by these officials before the learned Tribunal. The learned Tribunal directed the petitioners to consider the case of the affected persons for extending higher scale of pay of Grade III with effect from their respective dates on which their juniors had received the said scale of pay with all consequential benefits. The dispute between the officials and the Department was pursued all the way to the Apex Court. The Hon'ble Supreme Court had upheld the decision of the learned Tribunal, but only in respect of contesting persons. Since the respondent was aggrieved by the order dated 14-10-2013, she had raised identical issues before the learned Tribunal. Relying upon its earlier judgment and on the judgment passed by this Court in W.P. No.13450/2012, the learned Tribunal had directed the Department to pay the benefit of higher scale of pay of Grade III with effect from the date when her junior colleagues were granted the said scale of pay. Hence, this appeal before this Court.*

3. *Mr. Jayakara Shetty, the learned counsel appearing for the Union of India has vehemently contended that according to the earlier judgment, the benefit should to be given from the date of the order, and not from the date of the application.*

4. *Heard the learned counsel and perused the impugned order.*

5. *The direction issued by the learned Tribunal is to pay the benefit of higher scale of pay of Grade III, from the date the same was given to the juniors. Therefore, the contention raised by the learned counsel is clearly untenable. Once the benefit has been granted to other persons who are member of the same class, the said benefit cannot be denied to the respondent. Thus, the learned Tribunal was legally justified in extending the benefit to the respondent.*

For the reasons stated above, this Court does not find any merit in the petition. Accordingly, it is hereby dismissed.”

2. Apparently in a similar matter which went upto the Hon'ble Apex Court wherein the respondents seems to have agreed that they will implement the order and also extend it to all similarly placed people. We quote from it:

“ITEM NO.7

COURT NO.7

SECTION XIIA

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

I.A. 2/2016, I.A. 3/2016 & I.A. 4/2016 in Petition(s) for Special Leave to Appeal (C) No(s). 35654/2015

(Arising out of impugned final judgment and order dated 09/04/2015 in WP No. 31500/2011 passed by the High Court Of Judicature At Hyderabad For The State Of Telangana And The State Of Andhra Pradesh)

UNION OF INDIA AND ORS.

Petitioner(s)

VERSUS

S. BHEESMACCHAR AND ORS.

Respondent(s)

Appln(s) for permission to file impleadment and impleadment and direction and office report)

Date : 13/02/2017 This matter was called on for hearing today.

CORAM :

**HON'BLE MR. JUSTICE KURIAN JOSEPH
HON'BLE MR. JUSTICE A.M. KHANWILKAR**

For Petitioner(s) *Ms. Aishwarya Bhati,Adv.
Mr. S.S. Rawat,Adv.
Mr. S.S. Kachwaha,Adv.
Mr. Adarsh Kumar Tiwari,Adv.
Mr. G.S. Makker,Adv.*

For Respondent(s) *Mr. Kavin Gulati,Sr.Adv.
Mr. Mukesh Verma,Adv.
Mr. Pawan Kumar Shukla,Adv.
Mr. Yash Pal Dhingra,Adv.
Mr. D. Bharat Kumar,Adv.
Mr. Tadimalla Baskar G.,Adv.
Mr. Abhijit Sengupta,Adv.*

UPON hearing the counsel the Court made the following

O R D E R

Permission to file application for impleadment is granted. I.A. No.3 (Application for Impleadment) is allowed. Learned counsel appearing for the Union of India, referring to the affidavit filed by the Joint Secretary, submits that on an overall view of justice, the Government of India has decided to extend the benefit of the judgment to all similarly situated persons.

However, it is pointed out that the process will take a little time in view of the inter-ministerial consultation.

Therefore, this application is disposed of, directing the petitioners to extend the benefit arising out of the judgment to all similarly situated employees, within a period of twelve weeks from today.

We make it clear that there shall be no further extension of time and in case the payment is not made within the time granted, the employees will be entitled to interest @ 12% per annum from the date of original judgment by this Court and the officers responsible for the delay shall be personally liable for the same.

The I.A. NO.4 is, accordingly, disposed of."

3. Apparently thereafter the Government of India vide No. 22-06/2000-PE-I (Pt.) dated 08.05.2017 seems to have passed an order for implementation which we quote but yet the applicant has to come to the Court:

"No. 22-06/2000-PE-I (Pt.)
 Government of India
 Ministry of Communications
 Department of Posts
 (PE-I Section)
 Dak Bhawan, Sansad Marg,
 New Delhi – 110001
 Dated: 08th May, 2017

To,
All Heads of Postal Circles

Subject: Revision of guidelines for considering placement under TBOP/BCR Scheme in cases where seniors are considered for placement at par with their juniors.

Sir/ Madam,

Kindly refer to this office letter of even number dated 17.05.2000, issued in supersession of this office previous Orders No. 22-5/95-PE-I dated 08.02.1996, 05.08.1997 and 01.01.1998, relating to TBOP/BCR Schemes.

2. *The validity of the instructions issued vide this office letter of even number dated 17.05.2000 came in question before various judicial forums. Now, in pursuance of the Supreme Court Order dated 13.02.2017, in LA. No. 2, 3 & 4/2016 in SLP (C) No. 35654/2015, in the matter of UoI and Others. Vs. S. Bheesmachar and Others, and after consultation with the Department of Personnel & Training (DoPT), it has been decided with the approval of the Competent Authority to withdraw the instructions issued vide this office letter of even number dated 17.05.2000.*

3. *Thus, the instructions issued vide this office Letters No. 22-5/95-PE-I dated 08.02.1996, 05.08.1997 and 01.01.1998 will again come into force.*

4. *All cases where seniors are adversely affected by implementation of BCR scheme placing their juniors in the next higher*

scale of pay will be decided in terms of the instructions issued vide this office letters no. 22-5/95-PE-I dated 08.02.1996, 05.08.1997 and 01.01.1998, relating to TBOP/BCR Schemes.

5. *This issues with the concurrence of Integrated Finance Wing vide their Dy. No. 26/FA/2017/CS dated 08.05.2017.*

*Yours faithfully
sd/-
(Tanun Mittal)
Asstt. Director General (PE-I)"*

4. Therefore, this OA is also allowed to the same extent. Benefits to be extended within the next two months. No order as to costs.

(C.V. SANKAR)

(DR.K.B.SURESH)

MEMBER (A)

MEMBER (J)

/ksk/

Annexures referred to by the applicant in OA No. 170/01536/2018

Annexure A1: Copy of the DG post, New Delhi letter dated 08.02.1996, 05.08.1997 and 01.01.1998

Annexure A2: Copy of the DG Post, New Delhi letter dated 17.05.2000

Annexure A3: Copy of the DG post letter dated 08.05.2017

Annexure A4: Copy of the seniority list as on 01.07.1986, 01.07.1998 and 01.07.2004

Annexure A5: Copy of the representations of the applicant dated 09.03.2017, 07.07.2017, 17.10.2017 and 11.01.2018

Annexure A6: Copy of the SSPO letter dated 09.02.2018

Annexure A7: Copy of the Hon'ble High Court of Hyderabad order in WP No. 31500/2011

Annexure A8: Copy of the Hon'ble Apex Court order dated 13.02.2017 in SLP No. 35654/2015

Annexure A9: Copy of the CPMG letter dated 12.09.2017

Annexures referred in reply statement

Annexure R1: Copy of the letter dated 23.11.2017

Annexure R2: Copy of the modifications of TBOP/BCR Scheme-instructions regarding

Annexure R3: Copy of the implementation of TBOP/BCR Scheme-clarifications regarding

Annexure R4: Copy of the implementation of TBOP/BCR scheme-clarification in respect of order dated 05.08.1997

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