

**IN THE HIGH COURT OF PUNJAB & HARYANA AT
CHANDIGARH**

CWP-3293-2019

Date of decision : 06.02.2019

Union of India and others

... Petitioners

Versus

Mam Chand and another

... Respondents

***CORAM: HON'BLE MR. JUSTICE RAJIV SHARMA
HON'BLE MR. JUSTICE AVNEESH JHINGAN***

Present: Mr. Namit Kumar, Advocate
for the petitioners.

RAJIV SHARMA, J.

The petitioners have challenged the order dated 14.09.2018 (Annexure P-5A) rendered by the Central Administrative Tribunal, Chandigarh Bench, Chandigarh, (hereinafter referred to as “the Tribunal”) in M.A. Nos.60/373/2018, 060/696/2018, 60/927/2018 & 60/1118/2018 in O.A. No.660/00481/2015.

2. The brief facts necessary for the adjudication of this petition are that respondent No.1 joined his duties as EDR on 21.11.1989. He was declared surplus from B.O., Karera Khurd in the year 2006. He was sent to Yamuna Nagar as EDR/MDC. His pay was fixed as per the rules. He made request for transfer as GDSMC Buria against the vacant post vide letter dated 27.07.2011. At Karera Khurd, he was drawing salary of Rs.6840/- whereas at Buria he was given reduced salary of Rs.3696/-. One Narinder Kumar was getting Rs.6131/- based upon TRCA as per work load which remained the same. The post of GDSMC and GDSMD was at par. The

criteria of appointment of these posts was the same. The duty of GDSMC was to collect the *dak* from Sub Post Office to Branch Post Office and the duty of GDSMD was to distribute the *dak*.

3. Respondent No.1 submitted a representation seeking parity on 01.12.2011. It was not decided. He filed O.A. No.1584/HR/2013. It was decided by the learned Tribunal on 28.01.2015. The operative portion reads as under:-

“Hence, the OA is disposed of with direction to the respondents to re-examine the claim of the applicant for enhanced TRCA keeping in view the number of Sub Post Offices under Buria SO, the distance to be traversed by the applicant for covering these Sub Post Offices and the aspect regarding protection of TRCA in case of transfer of GDS from one location to another within the same Recruiting Unit. Such reconsideration may be effected within three months from the date of receipt of a certified copy of the order being served upon the respondents and a speaking order be passed in the matter, copy of which may also be provided to the applicant. No costs.”

4. Thereafter the case of respondent No.1 was turned down on 25.03.2015. His pay was fixed from Rs.2295-45-3695 to Rs.2870-50-4370. Thereafter respondent No.1 filed O.A. No.060/00481/2015. It was disposed of on 19.11.2016. The operative portion reads as under:-

“Considering above, order dated 25.03.2015 is set aside and matter is remitted back to the respondents to reconsider claim of the applicant by taking into account what we have observed in preceding paras by passing a reasoned and speaking order in accordance with law and rules. Order so passed by duly communicated to the applicant.”

was disposed of on 20.12.2017. The order reads as under:-

*“1. Learned counsel appearing on behalf of the respondent submits that in furtherance to order of this Court, the respondent has considered the case of the petitioner in the light of order passed by Ernakulam Bench of the Tribunal in the case of **V.Mohan Vs. UOI & Ors.** and has passed order dated 14.10.2017, copy of which has been appended as Annexure MA R-1. Therefore, he prayed that C.P. may be closed as having been satisfied.*

2. In view of the above, the C.P. is closed. Notice issued to the respondent is discharged.”

6. Respondent No.1 thereafter filed an Execution Application No.M.A.060/00373 of 2018 for implementation of the order dated 19.11.2016. Reply was filed to it. The application was disposed of by the learned Tribunal on 14.09.2018. The case projected before the learned Tribunal in the Execution Application was that the order dated 19.11.2016 was not implemented. Respondent No.1 had also sought directions to consider judgment rendered by Ernakulam Bench in OA No.574/2011 titled as **“V.Mohanan vs. UOI & Ors.”**. The case of the petitioners was also that transfer of respondent No.1 from Karera Khurd to Buria was made on his volition. According to the petitioners, the order dated 04.10.2017 was contrary to the judgment of Ernakulam Bench.

7. The learned Tribunal, after considering the ratio of the order dated 20.10.2011 passed by the Ernakulam Bench in O.A. No.574/2011 and interpretation of the rules, disposed of the Execution Application and the respondents were directed to protect TRCA of respondent No.1 in Karera Khurd Post Office as per ratio of **V.Mohanan's** judgment.

8. The learned Tribunal has come to the right conclusion that the

facts of *V.Mohanan's* case were similar to the case of respondent No.1. It was expected from the petitioners to follow the ratio of Ernakulam Bench. The case of respondent No.1 comes within the ambit of para 49(a) and 49(b) of the judgment of the Full Bench of the Tribunal which has been considered in *V.Mohanan vs. Union of India & Others*.

9. Accordingly there is no merit in the petition and the same is dismissed.

(RAJIV SHARMA)
JUDGE

(AVNEESH JHINGAN)
JUDGE

February 06, 2019.
Davinder Kumar

Whether speaking / reasoned

Yes/No

Whether reportable

Yes/No