WBCHCA0477882026

Item Nos.1 & 2
Ct. No.1
RP

# IN THE HIGH COURT AT CALCUTTA
# CONSTITUTIONAL WRIT JURISDICTION
# APPELLATE SIDE

## WP.CT 212 of 2026

**1) UNION OF INDIA** through the Secretary, Ministry of Communication and IT, Department of Posts, Dak Bhawan New Delhi-110001.

**2) THE DIRECTOR GENERAL, Department of Posts,** Dak Bhawan, New Delhi-110001.

**3) THE CHIEF POSTMASTER GENERAL,** WB Circle, Yogayog Bhawan, C.R. Avenue, Kolkata-700012.

**4) THE POSTMASTER GENERAL,** South Bengal Region, Office of the Chief Postmaster General, WB Circle, Yogayog Bhawan, Kolkata-700012.

**5) THE POSTMASTER GENERAL,** South Bengal Region, Yogayog Bhawan, C.R. Avenue, Kolkata-700012.

**6) THE POSTMASTER GENERAL,** North Bengal & Sikkim Region Siliguri, District: Darjeeling, PIN-734001.

**7) THE DIRECTOR OF POSTAL SERVICE (HQ),** Office of the Chief Postmaster General, WB Circle, Yogayog Bhawan, Kolkata-700012. **]…. PETITIONERS**

**versus**

**1) SUSANTA PAUL CHOUDHURY,**

son of Late Durga Pada Paul Choudhury, aged about 62 years
Ex-Pa (SBCO) Kolkata GPO, residing at Orchid Enclave-16,
Sarat Bose Road, Subhas Nagar, Kolkata-700065.

**2) AJIT KUMAR ROY**
son of Late Dhirendra Nath Ray, aged about 62 years,
Ex-Pa (SBCO) Park Street HPO, residing at Block-B,
Flat No.3A, Balaka Green Apartment, Sardarpara, Kaikhali,
Kolkata-700052.

**3) DAKSHINESWAR MAJHI,**
son of Late Prahalad Majhi, aged about 62 years,
Ex-Pa (SBCO), Asansol HPO, residing at Village & PO-Sankar,
District: Purulia, PIN-742101.

**4) SHYAMAPADA KARMAKAR**
son of Late Amar Ch. Karmakar, aged about 62 years,
Ex-Pa/SBCO, Durgapur HPO, residing at Village-Shaklara,
PO-Amarkanan, District-Bankura, PIN-722155.

**5) SAMIR KUMAR DAS-II**
son of late Sisir Ranjan Das, aged about 62 years,
Ex-Pa/SBCO, Bankura HPO, residing at Village-Nabapally
P.O. Kenduadihi, District-Bankura, PIN-722101.

**6) RANJIT KUMAR BAIDYA**
son of Late Jatindra Nath Baidya, aged about 67 years,
Ex-Pa/SBCO, Diamond Harbour HPO, residing at Village-Kanpur,
P.O.Hatugang, District: South 24 Parganas, PIN-743331. **] ..RESPONDENTS**

**With**

**WP.CT 553 of 2005**

**UNION OF INDIA & ORS. ]..PETITIONERS**

**VS.**

**RANJIT KUSUM CHOUDHURY & ORS. ]..RESPONDENTS**

**Appearance:**
Mr. Pinaki Ranjan Chakraborty
Ms. Amrita Pandey .....Advocates for Petitioners
Mr. Kalyan Sarkar .....Advocate for Respondents

**CORAM: RAVINDRA VITHALRAO GHUGE,**
**CHIEF JUSTICE**
**&**
**OM NARAYAN RAI, J.**
**Date: 07.10.2026**

**Judgment (Per Ravindra V Ghuge, CJ)**

1. **Rule.** Rule made returnable forthwith and heard finally by the consent of the parties.

2. The Petitioners before us are the Union of India and the Department of Posts. Respondents before us are six Employees, who are Original Applicants before the Learned Central Administrative Tribunal, Kolkata bench, in OA 350/334/2019, which was decided by the impugned order dated 01.04.2026.

3. The Petitioners have put forth prayer Clause 18(a) as under:-

"a. Issue a writ/order/direction and/or to set aside and/or quash the order dated 01.04.2026 passed in O.A. 350/334/2019 (Susanta Paul

Choudhury & Ors. vs. Union of India & Ors.) passed by the Learned Central Administrative Tribunal, Kolkata Bench"

4. We find that this case rests purely on facts, which are summarised as under:-

a) The Applicants were working on the post of Lower Division Clerk/Upper Division Clerk, which was subsequently nomenclatured as Postal Assistants and formed a separate category introduced by the Department of Posts.

b) The said department introduced a Time Bound One Promotion scheme (in short 'TBOP') on 30.11.1983. According to the said scheme, an employee was entitled to receive an increment to the next higher scale by way of one TBOP non-functional promotion after completion of 16 years of service as LDC/UDC or Postal Assistant/UDC, taken together.

c) Subsequently, the Department of Posts introduced a Biennial Cadre Review (in short, 'BCR') Scheme with effect from 11.10.1991. This scheme was applicable to those, who were already covered by TBOP and after completing a total of 26 years, meaning 10 years after receiving TBOP. The rise in the pay scale was also prescribed. For clarity, the

TBOP higher scale was Rs.1400-2300 and the BCR Pay Scale was an enhancement to Rs.1600-2660.

d) The benefits of both these schemes were not co-related to or dependent upon the Seniority-Juniority of any Employee. The benefits were available only on completion of 16 years and further 10 years in service.

5. It is, thus, apparent from the above details of the scheme that both these schemes have nothing to do with seniority or juniority of any person. In short, even if a candidate was junior most in the hierarchy, but on completion of 16 years, would be eligible for the TBOP benefit, notwithstanding his juniority. Similarly after the said candidate put in 10 more years, post receiving TBOP scheme benefits, he would be entitled to the next higher pay scale under the BCR Scheme.

## BACKGROUND HISTORY OF THIS CASE

6. The reasons leading to the delivery of the impugned judgement are based upon orders passed earlier by the Tribunal and this Court.

7. There were two employees, namely, Smt. Uma Biswas and Smt. Aruna Banerjee, who were granted benefits of BCR Scheme after completing 26 years in service, by putting together their earlier service with another government department. These two candidates were not arrayed as Respondents before the Tribunal. Smt. Uma Biswas was also an LDC and later an UDC, who entered the Postal Department on transfer under a scheme from the Telecom Department. Rule 38 of the '**Postal Manual Volume IV**', admittedly permits such inter-department transfer, subject to the condition that the person voluntarily seeking such a transfer would be relegated to the junior most level in the seniority list amongst the Employees falling in the same category like LDC or UDC. Similarly is the case of Smt. Aruna Banerjee.

8. Smt. Uma Biswas and Smt. Aruna Banerjee, after completing 16 years, were held to be eligible for the TBOP Scheme. It is pertinent to note, inasmuch as, it is nobody's case, much less a disputed case, that under Rule 38 of Postal Manual Volume 4, a candidate seeking transfer for personal convenience from one department to another department of Government of India, was only to lose his/her seniority after joining the other department. Such a candidate was not liable to lose his number of

years of service put in with the erstwhile Government of India Department.

In short, neither Smt. Uma Biswas, nor Smt. Aruna Banerjee were liable to lose their number of years put in with the Telecom Department. When the Rules do not prescribe such loss in number of years of employment, as if the transferred candidate is to start as a fresher, by no interpretation can such a conclusion be drawn that these candidates would stand to loss their earlier tenure of employment in the Telecom Department. Even the Tribunal did not draw this conclusion.

## OUR ANALYSIS AND CONCLUSIONS

9. Having considered the submissions of the learned Counsel for the respective sides at length and on perusing the record available before us threadbare, in the light of the judgments cited, we find that following factors were lost sight of by the Tribunal and were also not taken into account by a Co-ordinate bench of this Court, in the order cited before us :-

a) TBOP and BCR Scheme were **'tenure centric'**, meaning depended upon the time when a candidate completed 16 years of service to be

eligible for TBOP benefits and a further tenure of 10 years for being eligible for BCR benefits.

b) TBOP and BCR were **'not seniority centric'**, meaning that even if a candidate was last in the seniority list, but was eligible for the benefit of TBOP after completing 16 years and BCR after completing 10 further years, there was no embargo or impediment for grant of such benefits to such a candidate.

c) On transfer of a candidate from one Government of India Department to the other Government of India Department, by virtue of Rule 38 of the Postal Manual Volume IV, he/she would not lose his number of years put in service in the earlier Government of India Department.

d) It is undisputed that Smt. Uma Biswas and Smt. Aruna Banerjee had completed 16 years and further 10 years and had became eligible for TOBP and BCR scheme benefit.

e) The only reason for the Original Applicants to approach the Tribunal was that they propagated the theory of juniority/seniority and complained that because Smt. Uma Biswas and Smt. Aruna Banerjee were junior to the Applicants after their transfer from the Telecom Department to the Postal Department, and had got the benefits of TBOP and BCR

Scheme, these Applicants should be paid the same pay scales on the principle of 'stepping-up'. The Tribunal was impressed by the contentions of the Applicants that TBOP/BCR Scheme was interlinked with the juniority/seniority of employees.

10. The Learned Advocate for the Applicants have relied upon an order passed by a Co-ordinate bench of this Court on 23.08.2025 in WPCT 553 of 2005. We have called for the file in WPCT 553 of 2005 by orders dated 30.09.2026 and 01.10.2026, since we wanted to go through the said order. We find that the details of the said case have not been narrated in the said order, which is a short order. The law laid down by the Hon'ble Supreme Court vide its Judgment dated 09.10.2002 in ***Union of India & Ors. vs. Leelamma Jacob & Ors., (2003) 12 SCC 280,*** was referred to. But the Department had sought time to implement the order of the Tribunal dated 16.08.2004 passed in OA 1148 of 2003. Hence, the Petition was disposed off. As such, it is apparent that the said Petition was disposed off by a consenting order dated 23.08.2005.

11. In view of the order passed by the Tribunal, the Department approached the Hon'ble Supreme Court by filing SLP No.18019 of 2006 and the Hon'ble Supreme Court dismissed the SLP vide order dated

13.09.2010, recording that the order of the Tribunal/High Court would not be treated as a precedent for any other purpose. Moreover, we noticed from the said proceedings that the Union of India volunteered to implement the order of the Tribunal and the Writ Petition was disposed off by this Court which makes it a consenting order.

12. This brings us to the Judgment delivered by the Hon'ble Supreme Court in ***Leelamma Jacob*** (supra) which is heavily relied upon by Original Applicants before us. Having perused the judgment, we find that the Hon'ble Supreme Court dealt with the determination of seniority and length of service for the purpose of promotion from basic Grade-1 to the next Grade-2 under the Statutory Rules, based on the departmental examination held in 1981.

13. While dealing with the said case the Hon'ble Supreme Court noted that the benefit under the BCR would entitle the candidate to the higher basic grade, after he/she had continued in regular service for 26 years and would have been entitled to promotion. By virtue of OTBP/BCR scheme, approval/fixation of the pay scale was made by taking into account that the candidate was eligible for the OTBP/BCR Scheme.

14. The complaining candidates before the Hon'ble Supreme Court had contended that the beneficiaries of the BCR scheme, though junior to them in Grade-II, were promoted to Grade-III at higher scale of pay. The Hon'ble Supreme Court concluded that the BCR scheme, by virtue of which seniority attained by the Respondents on being promoted in 1981, was taken away, which was violative of the existing rules and was liable to be set aside. In the present case before us, no seniority has been changed by extending the monetary benefits to Smt. Biswas and Smt. Banerjee.

15. It is, thus apparent that the facts in ***Leelamma Jacob*** (supra) are completely distinguishable and different from the facts before us. The Applicants before the Tribunal complained that because Smt. Uma Biswas and Smt. Aruna Banerjee were given the benefits of BCR after completing 26 years, though those Applicants may not have completed 26 years when those two candidates logged 26 years, they should be held entitled for the benefits of BCR even before completing 26 years, by applying the 'stepping-up' principle.

16. For ready reference, we are reproducing the chart which was reproduced by the Union of India in its written statement/reply before the Tribunal, as under:-

| SL NO. | NAME | DATE OF ENTRY AS LDC | DESIGNATION PRIOR TO 1991 | POSITION IN THE GR. LIST CORRECTED UPTO 01.07.2007 | REMARKS |
|---|---|---|---|---|---|
| 1. | Dakhineswar Majhi | 20.09.1982 | LDC | 143 | 20.09.98 |
| 2. | Samir Kumar Das | 27.12.1982 | LDC | 147 | 27.12.98 |
| 3. | Shyamapada Karmakar | 27.12.1982 | LDC | 146 | 27.12.98 |
| 4. | Ajit Kumar Roy | 07.08.1981 | LDC | 127 | 07.08.97 |
| 5. | Susanta Paul Chowdhury | 08.08.1981 | LDC | 131 | 08.08.97 |
| 6. | Ranjit Kumar Baidya | 20.10.1978 | LDC | 109 | 20.10.94 |
| 7. | Uma Biswas | 27.06.1973 as telephone operator in Telecom Department/ Transferred under rule 38 on 01.11.83 as LDC in the Deptt. | LDC | 106 | 01.08.91 |

17. In view of the above chart, it is apparent that Smt. Uma Biswas had joined as a Telephone Operator on 27.06.1973. Amongst those Applicants before the Tribunal, Ranjit Kumar Baidya had joined on 20.10.1978. The other five had joined in 1981 and 1982. Smt. Uma Biswas was an LDC. These six applicants were also LDC. Smt. Uma Biswas became eligible for the TBOP benefit on 1.8.1991. The other six

Applicants became eligible for TBOP scheme on the dates mentioned in the above reproduced chart, in 1994, 1997 and 1998. However, the peculiar twist in this case is that the Union of India granted TBOP benefit to these Applicants prematurely, because of some orders passed by the Tribunal in other matters, concluding on the principle of stepping-up, oblivious of the fact that such a comparison could not have been made.

18. Now, the question before us is as to whether those Applicants who have received extra payments equivalent to the benefits of TBOP and BCR, prematurely, should be subjected to recovery. The admitted position is that the Original Applicants were already paid the benefit of BCR, prematurely. Consequently, their pay scale went up to Rs.1600-2660, which is the maximum available at the stroke of completing 26 years in employment. It appears from the record that these Applicants got the benefit of BCR even before they were eligible for the benefit of TBOP, meaning thereby that they received the monetary benefits prior to completing even 16 years.

19. What surprises us is that the Learned Tribunal has blindly followed the earlier orders passed by the earlier Bench of the Tribunal, without even going into the details of the case. The fact situation which

we have discussed in the foregoing paragraphs, should have been considered and discussed by the Tribunal. Be that as it may, having not so done, we have done the exercise and we find that those Applicants should not have been given the benefits when they were not eligible under the said two schemes, rather, they have already received the benefits prematurely even before completing 16/26 years. It is under fortuitous circumstances that they received such benefits.

20. Apparently, Applicants are labouring under the misconception that TBOP and BCR Schemes were related to seniority of a candidate, much to the contrary. The scheme itself indicates that there is no issue of seniority involved, save and except, that a candidate completing 16 years was eligible for getting the benefits of the TBOP Scheme and on completing further 10 years in continuity, for receiving the BCR Scheme benefits.

21. The Learned Advocate for the Petitioners has relied on an order dated 08.07.2014 passed by another co-ordinate Bench of this Court in the WPCT 104 of 2014 (Union of India & Ors. vs. Rabindra Nath Modak & Ors.). Even in the said order, the case canvassed before this Court was about getting the benefits of the scheme based on the seniority

aspect. It is quite unusual that the Union of India did not point out to our co-ordinate Bench dealing with Rabindra Nath Modak (supra), that the benefits of TBOP and BCR schemes were related to completing 16 years and 26 years as LDC, and had nothing to do with the inter-se seniority amongst the candidates. As such, the said order in Rabindra Nath Modak (supra) is clearly distinguishable on facts, which have been discussed by us in this Judgment.

22. In view of the above, **this Petition is partly allowed**. The Impugned Judgment and the Order of the Tribunal dated 01.04.2026 passed in OA No.350/334/2019, is quashed and set aside.

23. However, we need to consider that the Original Applicants, incorrectly and inadvertently have been granted the maximum benefits available on completion of 26 years, even before completing 16 years in employment, under fortuitous circumstances. The money has already been paid to them. They were not at fault in orchestrating such payment. There is no allegation of fraud or involvement of these Applicants in facilitating premature payment of TBOP and BCR benefits, at the stroke of completing 16 years or even there before, as the case may be. Therefore, we are deem it appropriate to rely upon the law laid down by

the Hon'ble Supreme Court in ***Syed Abdul Qadir vs. State of Bihar, (2009) 3 SCC 475*** and the ***State of Punjab & Ors. vs. Rafique Masih (White Washer), (2015) 4 SCC 334,*** and we direct the Petitioners not to recover those amount from any of these Applicants. Since all these Applicants have now superannuated and they have received the maximum benefits and have also completed 26 years in employment, no further action is required to be initiated by the Petitioners. We are, therefore, giving a quietus to this matter.

24. **Rule is made partly absolute in above terms**.

25. **Pending Civil Application, if any, would not survive and stands disposed off**.

**(OM NARAYAN RAI, J.)** **(RAVINDRA V. GHUGE)**
**Chief Justice**