

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.1025/2001

New Delhi, this the 16th day of July, 2002

Hon'ble Shri Kuldip Singh, Member(J)
Hon'ble Shri M.P. Singh, Member(A)

Devendra Kumar Pathak & 17 others
as per details given in OA .. Applicants
(By Shri G.P.Srivastava, Advocate)

versus

1. Secretary
Department of Telecommunication
Ministry of Communication, New Delhi
2. General Manager, Admn.
Department of Telecommunication
Kidwai Bhawan, New Delhi
3. Chairman & Managing Director
Mahanagar Telephone Nigam Ltd.
Jiwan Bharti Building, New Delhi
4. Chief General Manager (Admn.)
Mahanagar Telephone Nigam Ltd.
Khurshid Lal Bhawan, New Delhi .. Respondents
(By Shri Shankar Anand, Advocate)
proxy for Shri V.K. Rao, Advocate)

ORDER

Shri M.P. Singh, Member(A):

Applicants in this case are seeking direction to Respondents No.3 and 4 for making ~~an~~ ad hoc payment of Rs.1000 per month alongwith arrears of difference of pay from November, 1998 onwards and also payment of differential amount of productivity linked bonus for the year 1999-2000 with interest @ 18% per annum thereon.

2. Brief facts of the case are that the applicants, 18 in number, are holding Group C & D posts in Department of Telecommunication (DoT). They have been on deemed deputation to Mahanagar Telephone Nigam Limited (MTNL) w.e.f. 1.4.1986. The Chief General Manager (Admn.), MTNL (R-4) has issued notice dated 27.11.98 for termination of the deemed deputation status and permanent absorption w.e.f. 1.11.98 of Group C and D staff of DoT in the regular services of MTNL. Para 4 of the notice, inter alia, states that the staff will be allowed to draw

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salary in the existing government pay scale till the pay is fixed in the IDA pay scales. However, in the interim period, those employees who opt for PSU status, will be paid an ad hoc payment of Rs.1000 p.m. w.e.f. 1.11.98. The ad hoc payment of Rs.100 p.m. being paid to the employees for the deemed deputation status will be withdrawn from the date of absorption in view of ad hoc payment of Rs.1000/-. The applicants were to exercise their option either to continue in Government service (DoT) or opt for PSU status i.e. permanent absorption in MTNL w.e.f. 1.11.1998. The applicants have given their option for continuance in Govt. service. Their grievance is that they have been performing the same duties which are being performed by their colleagues who had opted for PSU status namely permanent absorption in MTNL w.e.f. 1.11.98, but they are being denied the benefit of ad hoc payment of Rs.1000/- per month w.e.f.1.11.1998. Hence, they have filed this application.

3. Respondents in their reply have stated that the applicants were offered chance to either opt for (i) government service governed by the Central Government Rules (Form A) or (ii) PSU status governed by company rules of MTNL (Form B). The applicants opted for Central Government Service (Form A) i.e. DoT service. As per office order dated 27.11.98, on termination of deemed deputation status of the employees, the ad hoc payment of Rs.100 per month was withdrawn as these employees had opted for government service. Ad hoc payment of Rs.1000 to MTNL optees is being made which is adjustable after finalisation of IDA pay scales for MTNL employees. According to the respondents, equal pay for equal work

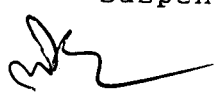
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cannot be translated into a mathematical formula and reasonable classification is permissible. Applicants were working on deemed deputation with R-3 and are governed by different set of rules and hence cannot claim parity with the regular employees of R-3. In view of these submissions, applicants are not entitled for any relief and the OA be dismissed.

4. Heard the learned counsel for the rival contesting parties and perused the records.

5. In this case we find that the applicants who are Group C and D employees of DoT are on deemed deputation to MTNL. Also the Memorandum dated 27.11.98 has been issued by MTNL which does not come under the jurisdiction of this Tribunal as no notification under Rule 14 (2) of Administrative Tribunals Act, 1985 has been issued conferring the jurisdiction of Central Administrative Tribunal on MTNL so far. We are supported in this proposition by the judgement of the Hon'ble Delhi High Court dated 24.8.2001 in CWP No.2702/2001 wherein it has been held as under:


"No such notification was admittedly issued till date to extend jurisdiction of Tribunal to MTNL. That being so, was Tribunal still obliged to entertain petitioner's OA challenging his suspension order which was passed by General Manager of MTNL and which was not endorsed to have been approved by DOT. The answer in our view was in negative because petitioner was challenging suspension order passed by the Chief General Manager of MTNL suspending him from the post of SDE (Cables), a post under MTNL and not from any post under DOT. It is true that petitioner maintained his lien to the TES Group B service in DOT but that was of no avail to him because his challenge was directed against suspension from the post of SEE (Cables) in MTNL and

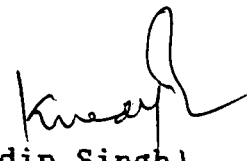


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passed by the Competent authority of MTNL. His service status enjoyed by him in DOT would not confer jurisdiction on Tribunal which otherwise was not admittedly vested in it for want of requisite notification under Section 14(2). Therefore, even when he held a lien on the post of TES Officer, his grievance directed against order suspending him from the post of SDE (Cables) in MTNL was not entertainable by Tribunal for lack of jurisdiction. It is also not the case that impugned order of his suspension was a composite order passed with the approval of DOT which could perhaps provide some basis for Tribunal's jurisdiction. This order was passed by the Chief General Manager on his own and it is not for us to examine whether it was passed validly or otherwise."

In view of the above position the present OA is not maintainable on the ground of jurisdiction and is accordingly dismissed.


(M.P. Singh)
Member(A)


(Kuldip Singh)
Member(J)

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