

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI

O.A.No.2559/2001

Hon'ble Shri Shanker Raju, Member(J)  
Hon'ble Shri S.K.Agrawal, Member(A)

Monday, this the 22nd day of April, 2002

Shri Zile Singh  
s/o Shri Leela Ram  
employed as Group 'D' official  
in Faridabad NIT Head Post Office  
under Faridabad Postal Division  
r/o 1-K/103 NIT Faridabad  
address for service of notices  
c/o Shri Sant Lal, Advocate  
C-21(B), New Multan Nagar  
Delhi - 110 056. ... Applicant

(By Advocate: Shri Sant Lal)

Vs.

1. The Union of India, through  
The Secretary  
Ministry of Communication  
Dept. of Posts  
Dak Bhawan  
New Delhi - 110 001.
2. The Chief Postmaster General  
Haryana Circle  
Ambala Cantt. 133001.
3. The Sr. Supdt. of Posts Offices  
Faridabad Dn. NIT Faridabad-121001.
4. The Sr. Postmaster NIT Faridabad H.O.  
Faridabad - 121001. .... Respondents

(By Advocate: Shri K.R.Sachdeva)

O R D E R (Oral)

By Shanker Raju, M(J):

Heard both the parties.

2. It is not disputed that, having approached this Tribunal earlier and in compliance of disposing of his representation, he has been conferred temporary status w.e.f. 29.11.1989 with all consequential benefits. It is also not in dispute that the applicant has been allotted to vacant post of Group 'D' vide respondents' letter dated 4.2.1998.

3. The grievance of the applicant in this OA is against a decision of the respondents where the bonus has been denied to him at par with temporary Group 'D' employee and rather on the basis of a decision of a Single Member of this Tribunal in Mumbai Bench in OA No.737/2000 (Shri Babu Eknath Jadhav & Others Vs. Union of India & Others), dated 25.6.2001 and further decision taken through letter dated 29.8.2000 entitlement of bonus has been decided to be at par with casual labourers. Applicant has sought all the consequential benefits on account of temporary status including bonus and appointment to Group 'D' post w.e.f. 11.2.1998.

4. Learned counsel for applicant by referring to the decision of the Apex Court in Jagriti Mazdoor Union Vs. M.T.N.L. & Ors., decided on 29.11.1989, in pursuance of which a notification dated 30.11.1992 was issued reproducing the observations of the Apex Court, the casual labourers having temporary status and who have rendered continuous three years service have been made entitled for the benefits including the bonus at par with temporary Group 'D' employees of the Department of Posts. By referring to this OM and further contending that in complying with this order, the respondents in a similar circumstance allowed bonus at par with temporary Group 'D' employees vide their letter dated 7.1.1998 by denying the same to the applicant amounts to hostile discrimination and contrary to the Articles 14 and 16 of the Constitution of India.

5. As regards the decision of Mumbai Bench of this Tribunal, it is contended that the Tribunal has not at all gone into the fact that in compliance of the decision of the Apex Court the order issued by the Director General of Posts dated 30.11.1992 it has been made clear that bonus shall also be paid to Casual Labourers with Temporary Status (CLTS) having completed three years continues service at par with Temporary Group 'D' employee. The aforesaid decision of the Mumbai Bench is not correct position of law wherein the decision of the Apex Court has not been considered in true letter and spirit.

6. On the other hand, learned counsel for respondents, denied the contentions of the applicant and stated that in pursuance of the decision of the Mumbai Bench supra a policy decision was taken to deny the bonus to casual labour with temporary status at par with temporary Group 'D' employee. Accordingly, the excess amount paid to the applicant is sought to be recovered and most of the amount has already been recovered thereof.

7. It is further contended that the applicant is still casual labourer with temporary status and having made to work against a Group 'D' post w.e.f. 11.2.1998, and shall be considered from being appointed to Group 'D' on availability of vacancy in accordance with the extant instructions on the subject.

8. We have carefully considered the rival contentions of the parties. In our considered view supporting by the decision of the Court in Jagriti Mazdoor Union Vs. MTNL & Others, supra wherein the casual labourers having temporary status, who are continued in service after temporary status for three years, are made entitled to the following benefits admissible to temporary Group 'D' employees such as:

(11)

1. All kinds of leave admissible to temporary employees.
2. Holidays as admissible to regular employees.
3. Counting of service for the purpose of pension and terminal benefits as in the case of temporary employees appointed on regular basis for those temporary employees who are given temporary status and who complete 3 years of service in that status while granting them pension and retirement benefits after their regularisation.
4. Central Government Employees Insurance Scheme.
5. G.P.F.
6. Medical Aid.
7. L.T.C.
8. All advances admissible to temporary Group 'D' employees.
9. Bonus.

Further action may be taken accordingly and proper service record of such employees may also be maintained.

9 The decision of the Single Member of Mumbai Bench of this Tribunal though referred to letter of Directorate of Posts dated 30.11.1992, but observed that having taken a policy decision, to pay bonus at par with casual labourers the same cannot be interfered and also observed in the order passed by

the respondents on 29.11.1989 payment of bonus at par with Group 'D' employee restricted, we are unable to agree with the same. In our considered view, the respondents' letter dated 30.11.1992 reproduces the decision of the Apex Court where the casual labourers with temporary status having completed three years of service as a temporary status have been made entitled to the benefits admissible to the temporary Group 'D' employees which interalia includes bonus. The only logical interpretation which is to be given to the ratio of the Apex Court as well as to the respondents' letter dated 30.11.1992 is that if a casual labour after having accord of temporary status continuously for three years in service, he is entitled to be given bonus at par with temporary Group 'D' employee. The issue regarding payment of bonus at par with Group 'D' employee, is no more res-integra and is conclusively decided by the Apex Court as such the decision of the Single Bench was not correct position of law and we accordingly over-rule the same. In our considered view the applicant who has completed three years continuous service after accord of temporary status in 1992, is entitled for bonus at par with Group 'D' employees. Policy decision taken by the respondents is contrary to the decision of the Apex Court and as well as to their own letter dated 30.11.1992. There was no necessity for seeking any clarification as the directions of the Apex Court were apparent on its face.

10 Furthermore, the respondents have discriminated the applicant in the matter of bonus as similar circumstance employee at Delhi, on the basis

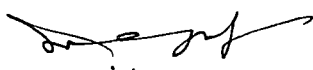
of circular dated 30.11.1992, has been accorded the benefit of bonus but a differential treatment has been meted out to the applicant which cannot be sustained and is violative of Articles 14 and 16 of the Constitution of India.

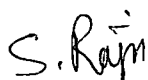
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11. As regards the claim of the applicant for appointment on Group 'D' post w.e.f. 11.2.1998, we find that the respondents have allotted to Senior Post Master, Faridabad against the vacant post of Group 'D' and his appointment has been left out on the availability of a clear vacancy, which is under process. Hence, we do not express any opinion on the same and leave this issue open.

12. In the result, the OA is disposed of with the directions to the respondents to pass an appropriate order in consonance with their notification dated 30.11.1992 according the benefits including bonus to the applicant as envisaged under their letter dated 30.11.1992. Applicant shall also be entitled to all the consequential benefits including refund of the recovery made on account of excess payment of bonus.

13. Respondents are directed to comply with the aforesaid directions within a period of three months from the date of receipt of a copy of this order. No costs.

  
(S.K. Agrawal)  
Member(A)

  
(Shanker Raju)  
Member(J)

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