

Central Administrative Tribunal, Principal Bench

Original Application No.2166 of 1998

New Delhi, this the 13th day of December, 1999

Hon'ble Mr.R.K.Ahooja, Member (Admnv)

(A)

1. Bir Singh s/o Shri Jesram, r/o C-13, DCM Colony, Ibrahim Puri, New Delhi-36
2. Munesh Kumar s/o Shri Gopi Ram, r/o 14/88, Kalyanpuri, Delhi-110091.
3. Om Prakash s/o Shri Nanu Ram, r/o 17/379, Kalyanpuri, New Delhi-91
4. Kundan Lal, s/o Shri Durga Lal, r/o 229/51, Fazalpur Mandawali, Delhi-110092.
5. Ramesh Naik s/o Shri Soma Naik, r/o G-121, Nanakpura, New Delhi-21.
6. Om Parkash Pandey s/o Shri Panna Lal Pandey, r/o 457, Sector 1, R.K.Puram, New Delhi.
7. Rattan Singh, s/o Shri Rasik Lal Singh, r/o Qr.No.71/167, Sector 3, GolMarket, New Delhi-110001.
8. Sri Bhagwan s/o Shri Matu Ram, r/o Rajpura, Tehsil Pataudi, P.O. Sherpur, Distt. Gurgaon (Haryana).
9. Madan Pal s/o Shri Deep Chand, r/o V. Gubhana, Teh: Bahadurgarh, Distt: Rohtak (Haryana).
10. Sanjeev Kumar s/o Shri Kishan Lal, r/o H.No.325, Block'D', Sonia Vihar, Delhi-110054.
11. Harkesh Kumar s/o Shri Mohinder Kumar, r/o S-11, C-343, Shri Rajiv Gandhi Nagar Camp, Nehru Stadium, New Delhi-3.
12. Naresh Kumar s/o Shri Bhag Singh, r/o V. Singhpara Kalan, P.O. Murukul, Distt: Rohtak (Haryana).
13. Ram Suresh s/o Shri Putul Ram, r/o 19/414, Trilokpuri, Delhi-110091.
14. K.Subramaniam s/o Shri Venkata Swamy, r/o 43, Dhobi Ghat, Race Course, New Delhi-110003.
15. Rakesh Kumar s/o Shri Charan Singh, r/o V. Patla, Distt. Ghaziabad (U.P.).
16. Udhamb Singh, s/o Shri Bhanwar Singh, r/o V. Bada, Teh: Palwal, Distt. Faridabad (Haryana).
17. Gian Singh s/o Shri Mata Din, r/o A-49, Phase-I, Sector 3, Papan Kalan, New Delhi.
18. Rishi Kesh s/o Shri Ved Ram, r/o V.Ghubhana, P.O. Ghubhana, Teh: Bahadurgarh, Distt. Rohtak (Haryana).

Re

19. Raju s/o Shri Sat Pal, r/o 1844/48, Palam Colony, New Delhi.

20. Bahadur Singh s/o Shri Tara Chand, r/o 331, Sewa Nagar, New Delhi-110003.

21. Mukesh Kumar s/o Shri John Lal, r/o M-13, Aliganj, Lodi Road, New Delhi-3.

22. Kameshwar s/o Shri Ram Narain, r/o Inderpuri, J.J. Colony, New Delhi-12. - Applicants

(By Advocate - Shri M.L.Chawla)

Versus

1. Union of India (Through the Secretary to the Govt. of India, Ministry of Defence, Central Secretariat, South Block, New Delhi-110011.

2. The Joint Secretary (Trg. & C.A.O.), Ministry of Defence, Govt. of India, Central Secretariat, South Block, New Delhi-110011.

3. The Camp Commandant, Air Headquarters, Vayu Bhawan, Rafi Marg, New Delhi-110011. - Respondents

(By Advocate Shri V.S.R.Krishna)

O R D E R

The applicants 22 in number were amongst 30 applicants who approached this Tribunal in OA No.2699 of 1996 which was disposed of by an order dated 21.2.1997 with a direction to the respondents to consider the OA as a representation and to pass appropriate orders in regard to the applicants' grievance for grant of temporary status. Thereafter the applicants in the present OA were granted temporary status and they state that subsequently they have also been given regular appointments. Their grievance is that for the period prior to grant of temporary status they were not given wages at the correct rates more particularly in the context of the revision made in these rates subsequent to the recommendations of the Fifth Pay Commission. Their second grievance is that they were not given

On

weekly offs nor were paid wages for working on the holidays. Finally, they claim productivity linked bonus as admissible to the civilian employees working under the respondents.

(b)

2. The respondents in their reply have stated that the arrears wherever due have been paid. They also state that the applicants have been paid for the work on weekly offs and in some cases leave had been granted. As regards the payment of productivity linked bonus the respondents say that the applicants are not eligible as the orders on the subject provide for payment only to those casual labourers who had worked continuously for 240 days (206 days in administrative office observing 5 days week) in each year for three years or more.

3. I have heard the counsel. Shri V.S.R.Krishna, learned counsel for the respondents fairly stated that the applicants will be granted the difference in daily wages as per the new rates notified by the Ministry of Defence. He pointed out that in reply to MA 1335/99 the new rates applicable from 1.1.1996 onwards have been described and the payments of arrears to the casual labourers for the period 1.1.1996 to 31.5.1999 is being processed by the respondents' office. In regard to the payment for weekly offs and availing of casual leave, he submitted that requisite payments were made at the relevant time and in some cases leave was also granted. In regard to the payment of productivity linked bonus, he pointed out that the office order of Directorate of Organisation dated 30.6.1997 (Annexure-A-1) itself shows

Oka

that the casual labourers with three years continuous service will be entitled for grant of the bonus and none of the applicants fall in the eligible category.

4. In view of the reply filed by respondents to MA 1335/99 and the submissions made by the learned counsel for the respondents, the first relief sought for by the applicants is already being granted by the respondents. The only direction that is required is to ask the respondents to complete the calculations and to make the payments within a specified time. In regard to the second prayer made by the applicants for payment of weekly offs, I have seen the prayers of the applicants in OA 2699/96, the records of which were requisitioned at the instance of the learned counsel for the applicants. In that OA the main prayer was for grant of temporary status. So far as the payment for weekly offs was concerned, the following relief was sought :

"(ii) To direct the respondents to grant benefits of a paid weekly off, leave on pro-rata basis, wages for holidays, bonus, increment, etc. as admissible to the Group 'D' employees from time to time as a consequence to their conferment of a temporary status."

There is no mention in the relief clause of OA 2699/96 regarding payment of weekly offs during the period prior to the conferment of temporary status. This was a relief which the applicants could have made in the earlier OA which was disposed of with a direction to the respondents to treat it as a representation and to pass necessary orders. Shri Chawla, learned counsel for the applicants submitted that a direction be given to the respondents to produce the relevant records to show

De

whether the payments were actually made or not. I do not think that the Tribunal is required to go into the dispute on a question of fact. Suffice it to say that since no such relief was sought for in the earlier OA, the same cannot be agitated now on the principle of constructive res judicata. [See Commissioner of Income Tax, Bombay Vs. T.P. Kumaran, 1997 SCC (L&S) 135.

5. In regard to the claim for productivity linked bonus also I find no such prayer in the earlier OA 2699/96 was made except in respect of grant of bonus as a consequence of conferment of temporary status. The scheme for temporary status clearly stipulates that the casual labourers with temporary status will become entitled to the bonus only after three years' continuous service. Since the applicants have been granted temporary status only from 1997 they are clearly not entitled for the grant of bonus.

6. In the result, the OA is partly allowed with a direction to the respondents to calculate and make the payments of arrears in regard to revised daily wages as described in their reply to MA No. 1335/99 within a period of two months from the date of receipt of a copy of this order. In the circumstances of the case the parties shall bear their own costs.

  
(R.K. Ahooja)  
Member (Admnv)

rkv