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CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.181 of 1997

New Delhi, this 30th day of June, 2000

Hon'ble Shri V.Rajagopala Reddy, Vice Chairman(J)
Hon'ble Smt. Shanta Shastray, Member(A)

1. National Federation of Postal Employees
through Shri R.L. Bhattacharya
Deputy Secretary General
UD-7, Dev Nagar
New Delhi - 110 005.
2. All India Postal Employees Union, Class-III &
ED through Shri R.A.P. Singh, General Secretary
Dada Ghosh Bhawan, Patel Road
New Delhi - 110 008.
3. All India Postal Employees Union
Postmen, Class IV & EDAs
through Shri Ashok Bhattacharya
Deputy General Secretary
17/D-3, P&T Quarters, Mandir Marg
New Delhi - 110 001.
4. Shri Mojiram
S/o Shri Rajbir Sharma
E.D. Packer, Mayapuri Post Office
New Delhi.
5. Shri Ravinder Kumar
S/o Shri Bhim Singh
Civil Lines Post Office
Delhi-54.
6. Shri Kishan Chand
S/o Late Shri Bhagwan Dass
E.D. Branch Post Master
Maholi, Krishna Nagar
Mathura.

... Applicants

(By Advocate: Shri Ashok Agarwal - not present)

versus

1. Union of India, through
Secretary
Ministry of Communication
Department of Posts, Dak Bhawan
New Delhi-110001.
2. The Director General
Department of Posts, Govt. of India
Dak Bhawan
New Delhi-110001.
3. The Director (SR)
Department of Posts, Govt. of India
Dak Bhawan
New Delhi-110001.

... Respondents

(By Advocate: Shri S.M. Arif)

(14)

ORDER(oral)

Smt. Shanta Shastry, M((A)

This is an application for regularisation of the period of absence of Extra Departmental Agents (EDAs for short) of the Department of Posts by orders dated 6.12.1996 and 20.12.1996. It was first clarified that no payment of wages is to be made to the EDAs who participated in the strike for the period from 23.10.1996 to 29.10.1996. It was further directed that if these payments had been made the same should be recovered in all cases in three monthly instalments to be fixed by the concerned authorities. The applicants who are the EDAs in the Department of Posts have sought to quash the impugned orders and to restrain the respondents from implementing the said orders.

2. The applicants in person as well as Trade Unions representing all categories of EDAs ^{one} employed with the respondents as Extra Departmental Sub Postmasters, Extra Departmental Delivery Agents, Extra Departmental Mail Careers/Runners, Extra Departmental Mail Peons/Packers, Extra Departmental Stamp Vendors, Extra Departmental Mailmen. A strike call was given by the Postal Federations when an announcement was made on 17.10.1996 for removing the existing ceiling at Rs.4500/- for Railway employees altogether making all Group 'C' & 'D' employees thereof eligible for payment of Bonus irrespective of emoluments drawn by them. Accordingly, the applicants participated in the strike during the period 23.10.1996 to 29.10.1996. Later on the Government decided on 26.11.1996 to regularise the

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absence of the striking postal employees by grant of proper leave as due ^{and} admissible in the case of regular postal employees on receipt of an application^s from individual employees. In respect of EDAs the period of absence from 23.10.96 to 29.10.1996 was decided to be condoned thereby obviating the need for enforcing the provisions of Rule 19 of the Extra Departmental Agents (Conduct & Service) Rules, 1964. The applicants and the Trade Unions lodged strong protest through their letters dated 19.12.1996 and 21.12.1996 against the aforesaid decisions as incorporated in the Memorandum dated 6.12.1996. It is the case of the applicants that the respondents are empowered to grant leave to the EDAs in terms of the provisions of Rule 5 of the Posts & Telegraphs Extra Departmental Agents ((Conduct & Service) Rules, 1964. The action of the respondents to allow wages to the regular employees for the strike period and denying the same to the EDAs is violative of Articles 14 & 16 of the Constitution of India. The applicants have also mentioned OAs filed in different Benches of the Tribunal where stay had been granted. The applicants have further urged that if the impugned orders dated 6.12.1996 and 20.12.1996 are implemented by making recovery from the wages of the EDAs it would affect them badly and great prejudice would be caused to them. The applicants have therefore prayed that the recoveries should be stayed and they should be made entitled to wages for the period of strike and no recovery should be made.

3. The learned counsel for the respondents submits that the application of the applicants is not as per the rules. This objection was taken at the stage of the admission itself. It does not meet the requirements of Rule 4 of the CAT (Procedure)Rules. However, the applicants were required to furnish the list of the members for whose benefit the OA was filed and whether the employees' association and Unions who had filed applications before the Chandigarh, MAdras, Cuttack etc. Benches are affiliated to the present applicants 1-3 or not. The applicants were allowed to amend the OA. The learned counsel for the respondents points out that the applicants have filed the amended memo of parties but have not complied with the orders of the Tribunal.

4. On merits, the learned counsel for the respondents submits that the EDAs were in no way affected by the ceiling limit of the emoluments which was the immediate cause for the strike call. Despite this the applicants joined the strike without any ^{justification} decision or cause. The applicants were denied wages for the strike period bearing in mind the law laid down by the Hon'ble Supreme Court that if an employee was on strike at his own risk he is not entitled to any wages for such period on the principle of "no work no pay". Besides, the regular Government employees and the EDAs belong to two distinct classes and are governed by two separate sets of rules. The EDAs are paid only for their days of attendance at work. They cannot be given the same treatment as given to regular government servants. The learned counsel

informs that on the application filed by the Branch Unions in the Chandigarh Bench stay granted earlier in two cases had been vacated. Further the Madras Bench of the Tribunal has dismissed the application of the National Union of EDAs in the Tamil Nadu Circle and of one another applicant. The learned counsel submits that the present application is also squarely covered by the judgement of the Madras Bench of the Tribunal in OA.No.1298/96.

5. Neither the applicants in person nor their counsel is present even on second call. Since the matter is of 1997, we have proceeded to adjudicate the same on the basis of the available pleadings and the submissions made by the learned counsel for the respondents. We have perused the judgement dated 19.9.1997 of the Madras Bench of the Tribunal in OA.1298/96 and as rightly pointed out by the learned counsel for the respondents we find that the judgement squarely covers the present application too. We, therefore, have no hesitation in agreeing with the same and hold that there is no merit in the application.

6. The objection of the learned counsel for the respondents that the applicants have not complied with the directions of the Tribunal in rectifying the application according to the rules has been noted. However, we do not take it as a ground for dismissal of the OA.

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7. We find no merit in the application. Accordingly the OA is dismissed with no costs.

Shanta S.
(Smt. Shanta Shastry)
Member(A)

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V. Rajagopala Reddy
(V. Rajagopala Reddy)
Vice Chairman(J)