

(9)

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH: NEW DELHI

O.A. No. 429/89

New Delhi this 16th Day of February 1994

The Hon'ble Mr. J.P.Sharma, Member (J)

The Hon'ble Mr. B.K. Singh, Member (A)

1. Shri Prem Lal  
Works Clerk Grade I  
% Superintending Engineer,  
Telecom Electrical Circle,  
Samrat Bhawan, Ranjeet Nagar,  
New Delhi.
2. Shri Ram Swaroop  
Works Clerk Grade I  
% Executive Engineer,  
Telecom Electrical Division No. I,  
Asaf Ali Road,  
New Delhi.
3. Shri S.B. Sharma  
Draughtsman Grade II,  
% Superintending Surveyor of Works (Postal)  
Postal Civil Circle  
Dak Tar Bhawan,  
New Delhi.
4. Shri J.B. Bansal  
Works Clerk Grade I  
% Superintending Surveyor of Works (Postal)  
Postal Civil Circle  
Dak Tar Bhawan, Parliament Street  
New Delhi.
5. Shri M.S.Basra,  
Architectural Asstt Grade I  
% Senior Architect (Postal)  
Dak Tar Bhawan,  
New Delhi.
6. Shri R.C. Malhotra  
Circle Secretary  
All India Telecom Administrative  
Offices Employees Union,  
% Senior Architect II (C)  
Dept. of Telecom,  
Room No. 712 Devika Tower,  
Nehru Place,  
New Delhi.
7. Sh. K.P. Singh  
S/o Sh. Chandi Ram  
% Superintending Engineer  
Postal Electrical Circle,  
Chankypuri,  
New Delhi.

(10)

-:2:-

8. Shri A.K. Khanna  
Draughtsman Grade II  
% Superintending Surveyor of Works  
Postal Civil Circle  
Dak Tar Bhawan, Parliament Street,  
New Delhi. ...., Petitioners  
(By Advocate : None)

V E R S U S

1. Union of India  
Through Secretary  
Ministry of Communications,  
20 Ashoka Road,  
Sanchar Bhawan,  
New Delhi.

2. Secretary,  
Department of Telecommunications,  
Telecom Board,  
20 Ashoka Road,  
Sanchar Bhawan, Ashoka Road,  
New Delhi.

3. Member (Personnel)  
Department of Telecommunications,  
20 Ashoka Road, Sanchar Bhawan,  
New Delhi

4. Member (Personnel)  
Department of Posts,  
Postal Board, Dak Tar Bhawan,  
Parliament Street,  
New Delhi.

5. The Dy. Director General (BW)  
Civil Wing, Ministry of Communications,  
20 Ashoka Road,  
Sanchar Bhawan,  
New Delhi.

6. The Chief Engineer  
Civil Wing  
Ministry of Communications,  
Dept. of Posts  
Dak Tar Bhawan,  
Parliament Street,  
New Delhi.

(By Advocate Shri M.L. Verma)

.... Respondents

ORDER (CORAL)

Hon'ble Mr. J.P. Sharma, Member (J)

The applicants have jointly filed this application  
while working in Telecom Department, Ministry of Tele-  
communication, on different posts i.e. Works Clerk Gr.I,

(11)

draftsman Grade II, Agricultural Assistant Grade I. They have assailed the order dated 12.11.1987 passed by the Assistant Director General, order dated 5.10.1988 by passed by Director Establishment. The order dated 5.10.1988 and 10.3.1988 by ADG(TE) and Director (VT) on the subject of payment of bonus. The applicant has prayed for the grant of the relief that the impugned orders be quashed and the respondents be directed to pay to the staff of the Civil Wing as payable on date 31.12.1984, at Telecom rates. With a further direction that respondents adheres to the conditions of recruitment, transfer, promotion and allied staff matters of non gazetted staff as on 31.12.1984. A brief history is relevant in as much as there was a bifurcation of the Department of Posts and Department of Telecom by the Memorandum of 1985 by Presidential Notification and P&T Department was split into two separate departments i.e. Department of Posts and Department of Telecom with separate Budget Heads. This necessitated to re-distribute the Civil Wing Circulars and Division between the two departments in order to have better control and smooth functioning of the projects. The administrative control, therefore, was placed under the control of telecom circles. The orders are to be given effect from 1.10.1986 and will be applicable to those employees who have joined on or after 1.10.1986. Since the applicants do not fall in the category of those who joined on or before 1.10.1986 they will not be effective <sup>ed</sup> by the order dated 12.9.1986. This order of 12.9.1986 clearly lays down that the seniority and the transfer liability of non-gazetted staff shall

be effected in the case of recruitment and appointment made after 1.10.1986. By another order dated 12.2.1987 there was integration of the Civil Wing in the department of telecommunication with telecom wing. This was a sort of clarification of the earlier order dated 12.9.1986. The grievance of the applicant is that by the order dated 12.11.1987 (Annexure A-13) the department of telecommunication issued directions on the admissibility of productivity link bonus for the financial year 1986-87 for the personnel of civil wing working in the department of telecommunication. It was observed that the civil wing staff working in department of telecommunication would get the bonus applicable to the staff of Department of Telecommunication while the civil wing staff working in department of posts get the bonus applicable to the staff of department of posts. According to the applicant this is a discriminatory arbitrary and they should be paid at par the bonus which is being paid to the Civil Wing staff in the department of posts.

The respondents have in their reply opposed the grant of the relief. It is stated that the cadre of Civil Wing is common to both the Department of Posts and Department of Telecom, the establishment of both the departments are separate. The Budget for both the Departments is also separate. The bonus is linked with productivity of the organisation and the employee working in the department of posts who have contributed to the production and ultimately to the profit gained by the department of posts during the financial year is entitled to the bonus announced by the Department to its employees, Similar is the case with Dept. of Telecom.

None is present on behalf of the applicants. Since this is an old matter we propose to dispose it off on merit of the pleadings of the record. Shri M.L. Verma is present on behalf of the respondents and assist us in going through the pleadings and argued the case for respondents

In the grounds certain averments have been made with regard to another application which came on transfer from the Delhi High Court and was decided by the Principal Bench. The statement, if any, made on behalf of the respondents either by the counsel or by the departmental representative for which he has not been instructed by the controlling authority will not ~~maxim~~ give any benefit to the applicants. Nor any such statement unless reduced as an undertaking in writing can be passed in any case by a beneficiary of the same.

The other ground taken is that the cadre controlling authority of the Civil Wing employee is the Department of Telecommunication. The staff of the Civil Wing is only sent to the Department of Posts or to the Department of Telecomm. under the direction of the higher authorities and not on the option of the staff of the Civil Wing. This fact is not disputed by the respondents but what is more important is that bonus is determined on the level of production achieved and profit gained by the department in a financial year. Since it is a productivity link bonus so the benefit of any enhanced bonus will be available only to the employees who have given better production in the department. The bonus is an amount in the share of profit earned on account of certain work which led to production and profit.

Thus the impugned order dated 12.11.1987 cannot be faulted with.

The applicants have also taken the ground that certain posts are filled up by the junior staff in the telecom department of the Civil Wing while the senior working in the department of posts are deprived of the bonus which had been made applicable to those working in the Civil Wing of Department of posts. It is stated that this is discriminatory. However, it is not so. Those who are working in the Civil Wing of the Telecom and those who are assigned the work in the Civil Wing of posts department constitute different classes themselves. It is not discriminatory if classes are created for better functioning of the department provided there is no inequality or arbitrariness in making the classification, i.e. not the case here. Those who work in particular department either in telecom or posts are given bonus which is linked in productivity in each department. The work done in that department and the profits gained by the department entitles them to a bonus i.e. a share of profit. In view of this it cannot be said that this is discriminatory.

The other grounds have been <sup>reiterated</sup> reported and leads only to the same challenge of the impugned order.

In view of the above facts and circumstances we do not find any merit in this application and the same is dismissed leaving the parties to bear their own costs.

  
(B.K. Singh)  
Member(A)

\*Mittal\*

  
(J.P. Sharma)  
Member(J)