

10

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
NEW DELHI

O.A. No. 890/88  
T.A. No.

198

DATE OF DECISION 29.1.1990.

Shri Hukam Singh & Ors. Applicant (s)

Shri C.L. Dhawan Advocate for the Applicant (s)

Versus

Union of India & Ors. Respondent (s)

None Advocate for the Respondent (s)

CORAM :

The Hon'ble Mr. P.K. Kartha, Vice-Chairman (Judl.)

The Hon'ble Mr. D.K. Chakravorty, Administrative Member.

1. Whether Reporters of local papers may be allowed to see the Judgement ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the Judgement ?
4. To be circulated to all Benches of the Tribunal ?

JUDGEMENT

(delivered by Hon'ble Shri D.K. Chakravorty)

The applicants, who were working as Works Clerks in the Office of the Senior Architect II (Telecom) in the Department of Telecom under the Ministry of Communications, filed this application under Section 19 of the Administrative Tribunals Act, 1985, seeking the following reliefs:-

- (i) to set aside and quash the impugned orders issued by the respondents, whereby it was provided that in their Office the employees should work six days in a week (Orders dt. 30.3/4.4.88 and 10.5.88); and

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- (ii) to direct the respondents to give effect to the orders providing for 5-day week in administrative offices in the Govt. of India (Orders dated 21.5.1985 and 27.5.85).

2. This application came up for admission on 17.5.1988, when it was admitted after hearing the learned counsel for the applicant. The respondents were directed to file their counter-affidavit within four weeks. Thereafter, the case was listed for hearing on 10.10.1988, 29.11.1988, 16.1.1989, 17.2.1989, 8.3.1989, 1.5.1989, 7.6.1989, 18.7.1989 and 17.1.1990. Despite service of notice on the respondents, they did not care to enter appearance or file their counter-affidavit. None appeared on their behalf at these hearings.

3. We have perused the records of the case and have heard the learned counsel for the applicants.

4. The facts of the case in brief are that the Ministry of Communications, in which the applicants are working, consists of Administrative Offices and Operative Offices. No criteria or guidelines appear to have been laid down to characterise the offices under them as 'administrative' or 'operative'. The applicants are working in the Civil Wing of the P.&T. Department. The work of the Civil Wing pertains to construction of P&T buildings and the maintenance thereof.

5. On 21.5.1985, the Department of Personnel & Training issued an Office Memorandum relating to the introduction of 5-day week in the administrative offices of the Govt. of India. According to this O.M., the Government decided to introduce 5-day week in the civil administrative offices of the Government of India w.e.f. 3rd June, 1985. The offices would work for 5 days from Monday to Friday,

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with all Saturdays as closed. To make up for the closed Saturdays, the working hours per day during the five days of the week when the offices are open, will be increased by one hour (Vide Annexure A-1, p.15 of the paper-book).

6. On 27.5.1985, the Office of the Director General of Tele-communications in the Department of Telecommunications issued circular instructions to all heads of Telecom Circles/Telephone Districts and all heads of administrative offices on the subject of introduction of 5-day week in the administrative offices of the Government of India for their guidance and further necessary action.

7. The Office of the Senior Architect II in the Architectural Wing has issued an Office Order on 30.5.85 to the effect that consequent on the introduction of 5 days week in the Government of India administrative offices and rescheduling of the office timings of such offices, vide letter dated 21.5.1985, it has been decided that the duty hours of that office w.e.f. 3.6.85 will be on the basis of 5 days pattern (vide Annexure A-3, p.17 of the paper-book).

8. The applicants are, however, aggrieved by the circular letter issued by the Ministry of Communications, Department of Telecommunications, on 30.3.1988/4.4.1988, wherein it is stated that the offices of the DEs, SDOs and AEs and equivalent offices who are in charge of Exchanges CTOs/DTOs, etc., should continue to follow 6 days a week pattern in respect of categories of staff under them. It was further stated that all offices under the charge of officers upto the level of Junior Administrative Grade (JAG) will follow 6 days week pattern in respect of categories of staff under them. However, such officers/

29/1/90

13

staff who have been availing of second Saturday in the past, may continue to do so. Thus, all offices under the charge of District Telecom Managers, Area Managers, Area Directors, Directors (Telecom), Maintenance/Projects, SEs Civil/Electrical, Senior Architects, SSWs, etc., and equivalent offices, in addition to the offices indicated in the letter dated 6.11.1985, will work on 6 days a week pattern.

9. The applicants have drawn attention to an earlier application which was heard by this Tribunal (T-544/85) which was disposed of by our order dated 21.2.1986. The Tribunal disposed of the <sup>said</sup> application on the basis of a statement made by the learned counsel for the respondents at the Bar that the respondents are prepared to implement their order dated 26.11.1985 regarding the reallocation of work in the Civil Wing due to bifurcation of the P & T Department and that any order passed contrary to the said instructions so long as they are in force, will be withdrawn. In accordance with the aforesaid order dated 26.11.1985, the conditions of recruitment, transfer, promotion and allied staff matters of non-gazetted staff will remain unaltered as on 31st December, 1984. Thereafter, on 4.3.1986, the respondents issued a circular letter reiterating that in respect of management of non-gazetted staff of Civil Wing, instructions contained in the letter dated 26.11.1985 should be strictly adhered to.

10. The applicants have stated that the officials of the Civil Wing of the Department of Posts are enjoying the benefit of 5 days week while those on the side of

28/1/90

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14

the Department of Telecommunications, will have to perform six days if the order under challenge (Annexure A-4 and A-7) is implemented. This will also amount to non-compliance with the statement made before the Tribunal while disposing of Ta-544/85 on 21.2.1986.

11. The applicants as well as the All India (P&T) Administrative Offices Employees Union had sent representations to the respondents against the impugned orders but they did not receive any favourable response (vide Annexure A-8, A-9, p.p.23-26 of the paper-book).

12. In our opinion, the work pattern to be followed in a Ministry or Department or offices under them, is primarily a matter for administrative decision on the basis of policy considerations. The Government is the best judge in this regard. The area in which the judicial review would come into play is where the Government implements its policy in an arbitrary manner. The grievance of the applicants is that persons similarly situated like them working in the offices of the respondents, are observing 5-day week while <sup>the</sup> applicants have been made to work for six days in a week. They also contend that while they have been asked to work for six days in a week, they are not treated as operative staff nor are they given the benefit extended to such staff. The learned counsel for the applicants stated that the operative staff <sup>given</sup> is/several benefits compared to the staff on the administrative side such as, time-bound promotions, higher O.T.A. rates, etc.

13. We see force in the contention of the applicants that persons belonging to the same category should not

28/11/80

15

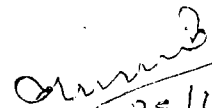
be given different treatment. At the same time, we do not consider it appropriate to quash the impugned orders as sought by the applicants. In the interest of justice and fairplay, we order and direct as follows:-

- (i) In case, persons similarly situated like the applicants working in the same office have been permitted to work only for 5 days a week, the same rule should be applied to the applicants also.
- (ii) If the respondents intend to engage the applicants on 6 days in a week pattern of working, they should be given all the benefits which are given to the staff belonging to the operative side.

14. The respondents shall comply with the above directions within a period of three months from the date of communication of this order. The parties will bear their own costs.

  
(D.K. Chakravorty)  
Administrative Member

29th January, 1990

  
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(P.K. Kartha)  
Vice-Chairman(Judl.)