

Reserved

V.2

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH ALLAHABAD

C. A. No.

C. A. No.

3230766

of 1987 Date of Decision: 28.2.95

A. K. Jaiswal & others - - - - - APPLICANT(S)
S. K. P. Agarwal & S. Arbind Kumar - - - - - Advocate for the
applicant.

vs.

D. O. I. & another - - - - - RESPONDENT(S)
S. N. B. Singh - - - - - ADVOCATE FOR THE
RESPONDENTS.

COURT :-

The Hon'ble Mr. T. L. Verma, Member-J.

The Hon'ble Mr. S. Doyal, Member-A.

1. Whether the reporters of local papers may be allowed to see the judgment?
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fax copy of the judgment?
4. Whether to be circulated to any other Bench?

SIGNATURE

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CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH

A L L A H A B A D

T. A. No. 766 of 1987.

Dated : The Allahabad 28th July 1995.

Hon'ble Mr. T. L. Verma A. M.
Hon'ble Mr. S. Dayal, J.M.

1. A. K. Jaiswal T. No. 208,
S/o. Dr. R. N. Jaiswal.
2. J. S. Nanda, T.NO. 202,
S/o. Shri Hari Singh.
3. Pratap Krishan, T. No.207,
S/o. Shri C. L. Anand.
4. O. P. Narula, T. No. 211.
S/o. Sant Ram Narula
5. G. S. Rawat, T.No.204 ,
S/o. Sri D. S. Rawat.
6. G. J. Pillia, T. No. 201.
S/o. Shri Govind Pillia.
7. Asha Singh T. No. 215,
S/o. Shri Dharam Chand.
8. S. K. SOod T.No.210,
S/o. Shri Ram Nath Sood.
9. A. S. Kochhar, T. No. 203,
S/o. Shri S. Atar Singh Kochhar
10. K. N. Paliwal, T. No. 214,
son of Sri R. S. Paliwal.
11. P. P. Jaiswal T. No.213,
S/o. Shri Ram Chahran Lal.

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12. B. L. Arya T. No. 205,
Son of Shri Ganesh Lal.
13. G. C. Arora T. No. 212,
s/o. Shri Prem Chand Arora.
14. R. K. Chaudhary T. No. 7123622 UDC
S/o. Shri Baikuntha Kumar Chaudhary.
15. Harnam Singh No; 9704716
s/o. Sri Bhagwan Singh
16. Daulat Ram No. P/ 2885
S/o. Shri Mohan Lal
17. Siya Ram Chaturvedi No. P/ 2151
son of Shri B. L. Chaturvedi
18. Shyam Narain Kapoor No. P/ 2155
S/o. Sri Jagmohan Lal Kapoor.
19. Dhanpat Ram Bhalla No. P/ 4690455
S/o. Shri Gurbux Rai Bhalla
20. Kailash Prasad No. 7124676
S/o. Shri Sunder Pal.
21. Vijaoy Kumar Gupta No. IA-690362
S/o. Sri Nathi Lal Gupta.
22. Hari Singh Soni T. No. 5223
S/o. Shri Ch. Hashnak Rai Soni
23. Khushi Ram T. No. 5227
S/o. Sri Pera Ram
24. Om Prakash Sood T. No. 5227
S/o. Shri Balwant Rai Sood.
25. Harbhajan Singh T. No. 5232
s/o. Shri Kishan Singh.
26. Tarsem Singh Permar T. No. 5240
s/o. Shri Hazara Singh Permar.

27. Ram Lal T. No. 5242
s/o. Sri Jiwan Dass.

28. R. K. Chakarvatty T. No. 5253
S/o. Shri R. R. Chakarvorty

29. Mohan Singh T. No. 5161
S/o. Shri Makhan Singh.

30. Malak Raj T. No. 5162,
S/o. Shri Faqir Chand

31. Gopal Dass T. No. 5175
S/o. Shri Ram Lochan.

32. Shamsher Singh T. No. 5280
S/o. Shri Danieh Singh

33. Dwarka Nath T. No. 5285
S/o. late Chaman Lal

34. H. R. Gupta T. No. 5286
S/o. Shri late Shri P. C. Gupta.

35. Akhileshwar Lal T. No. 5287
S/o. late Nitya Nand Lal.

36. Tirloky Nath Gomphave T. No. 5289
S/o. Shri Jaswant Rai Govibhai.

37. Phool Singh Yadav T. No. 5290
S/o. Shri Rao Nitya Nand.

Al G/o. A. K. Jaiswal,
396, Gupta Bhawan,
Namnair, Agra petitioners.
(by Advocate Shri K.P. Agarwal & Arvind Kumar)
Versus

1. Union of India
Through : The Secretary,
Ministry of Defence,
Government of India,
New Delhi.

2. Takniki Group Vidyut Aur
Yantrik Engineer Mukhyalaya,
Headquarters, Technical Group,
EME Delhi Cantt. through the Officer/
Commanding Opposite parties.
(Through the Advocate Sri N. B. Singh)

(BY HON'BLE MR. T. V. L. VERMA, JUDICIAL MEMBER)

1. The applicants, herein, 37 in numbers are employees of Union of India, employed in different Defence Establishments. The applicant Nos. 1 to 16 are attached with Equipment Depot Workshop, E.M.E. Agra and applicant Nos. 17 to 37 are attached with 509, Army Base Workshop. They are serving with T. G. -17 and T. G. 12 respectively. The Government of India by its decision communicated under letter No. 24(1)/80/D(JC) dated 25th August, 1980 decided to bring the eligible category of Civilian Employees of the establishments/organisations mentioned, in the letter, under the department of Defence under ~~that~~ purview of scheme of productivity linked bonus. ~~That~~ pending finalisation of the detailed scheme of productivity linked bonus in respect of the organisations/units mentioned in the letter, payment order for productivity linked bonus on adhoc basis, equal to 15 days wages was issued by the Government of India to all civilian employees of organisation/unit under the department of Defence as ad-hoc payment for the year 1979-80. The applicants, who were employees of detached T. G-15 and T.G-16 attached with 509, Army Base Workshop and Equipment Depot Workshop, E.M.E. were

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also paid the same bonus in the year 1979-80. Subsequently, however, the matter was referred to the Headquarters for clarification as to whether Civilian Staff working in T.G. detachment were also entitled for payment of bonus as per the decision of the Government of India, communicated by letter dated 25th August, 1981(Annexure-1). Later on, it was clarified by the Government that the payment of bonus will not be made to civilian serving in Headquarters Technical Group E. M. E. and its attachments as they were not included in Annexure-3 of Government Letter dated 25th August, 1981 (Annexure-1). As the applicants are serving in Detachment of Headquarters Technical Group E.M.E. and have been attached with 509, Army Base Workshop EME and Equipment Depot Workshop E.M.E. Agra for local administration, being located away from their Headquarters as per the clarification issued by the Government of India, Ministry of Defence, the applicants are not entitled for payment of productivity linked bonus. The instructions accordingly were issued for recovery of the productivity linked bonus paid to the applicants. The applicants submitted their number of representations to the respondents.



2. It is stated that the Technical Group detachment are not separate establishment of the Army Workshop or the Army establishment. The Technical Group Detachment comprises of only persons who carry out inspections in a particular Army establishment. They have to work in the same

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factory or the establishment of the Defence Department just as any other civilian employee works in that department. They not only work in same factory but on many occasion they work on the same table or on the same test equipment. It was stated that order dated 25.8.1981 whereby the decision to extend the benefit of productivity linked bonus has been extended to civilian employees of same establishments is very much applicable to the applicants inasmuch as they are performing the same duties which their counter-parts in 509 Army Base Workshop Agra, 512 Army Base Workshop Poona are performing. Denial of the productivity linked bonus to the applicants, which is being given to their counterparts employees in 509 Army Base Workshop, EME Agra and 512 Army Base workshop, Poona is arbitrary and violative of principle of Article 14 of the Constitution of India. It has further been stated that technical group attached in other civilian establishments of Defence Department/Workshops such as Central Ordnance Depot Agra, Central Ordnance Depot, Allahabad, 508 Army Base Workshop, Allahabad, 505 Army Base Workshop Delhi, 515 Army Base Workshop at Bangalore are being paid productivity linked bonus in terms of order dated 25.8.1980 and as such no discrimination can be made in respect of the petitioners who are working in EME establishments in EME Agra, hence this application for quashing the order dated 5.1.1981 and 7.8.1981 whereby the decision of the Government that the applicants were not entitled to payment of productivity linked bonus was communicated and for issuing a direction in the nature of mandamus to

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continue to pay the applicants productivity linked bonus in future on the same rate on which it is being paid to other employees in the establishment to which they are attached and not to recover from their pay the amount of adhoc bonus paid for the year 1979-80.

3. The respondents have contested the claim of the applicants. In the written reply filed on behalf of the respondents, it has been stated that the applicants have been posted in Detachment of Headquarters Technical Group E.M.E. Delhi Cantt. and not in the units as stated by the petitioners. According to the respondents, they have been attached with the units at Serial Nos. 5 and 78 of Annexure-III for local administration being located away from their main Headquarters. That being so, it was stated that the applicant not being attached to static types of E. M. E. so they are not entitled to productivity linked bonus.

4. The first question that falls for our consideration is whether the applicants are posted in their respective units at Sr. Nos. 5 & 78 of Annexure-III or they are part of the Headquarter E. M. E. Delhi.

5. We have heard the learned counsels for the parties and perused the record. The applicants have annexed Annexure-III ; communication from Regiment Inspector, 515, Army Base Workshop, Bangalore to Headquarters Technical Group EME(QC) Delhi Cantt.

Annexure-4 ; letter from Officer Incharge, Detachment Technical Group No.16(Inspection), Equipment Depot Workshop EME Agra to Headquarters, Technical Group EME , (QC) Delhi Cantt ; ; Annexure-5 letter dated 13th Dec.80 from Officer-in-Charge, Detachment Takaniki Group Vidyut Aur Yantrik Ingniry No.15 509, Thal Sena Base Workshop Agra to Headquarters Technical Group EME (Admn) Delhi Cantt ; and Annexure- 6 letter dated 19th June, 1981 from Officer -in-Charge(Administration), 509, Army Base Workshop, Agra to Headquarters Technical Group E.M.E. (Admn) Delhi Cantt. in support of their argument that there is no difference in duties performed by the applicants and the other employees of 509 Army Base Workshop and Equipment Depot Workshop, E.M.E. Agra. By Annexure-3, the Regiment Inspector Detachment, Technical Group-15, Army Base Workshop, Bangalore has written to the Headquarters that Technical Group No.6(Inspection) has not been listed in the Annexure-3 of the decision of the Government of India whereby benefit of productivity linked bonus has been extended to civilian employee of establishment/organisation under the Department of Defence, although, personnel of that detachment were performing the duties exactly the same as many of the personnel of 515, Army Base Workshop as well as CIL, who have been authorised to receive the above bonus are performing. In para 3 of the letter, it has been mentioned that role of that Technical Group No.6 is to study the various design, drawings,material specifications and processess involved for the manufacture of various items in 515 Army Base

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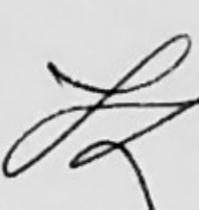
Workshop prepare the inspection log/check sheets for these items and that the activities of that detachment were very much linked with the production of the Base Workshop and therefore, requested the Headquarters to include all the Inspection Detachment in Annexure-3 by means of suitable amendment and arrange expeditious payment of bonus to the effected persons. Similar request was made by Officer-in-Charge, Detachment Technical Group No.16(Inspection), Equipment Depot Workshop EME Agra and Officer in-Charge, Detachment Group No.15, 509, Army Base Workshop, Agra and Officer in-Charge(Admn), 509, Army Base Workshop, Agra. On consideration of the representations turned down the proposal to include the detachment of Technical Group, E. M. E. in the bonus scheme and wrote that the Detachment Technical Groups are not entitled to payment of productivity linked bonus.

6. In view of the above, the only question that falls for our consideration is whether the applicants fulfil the conditions as laid down for entitlement of payment of productivity linked bonus.



7. Ministry of Defence by order dated 25th August, 1980 ~~decided to bring~~ the units of the establishment/organisation of the department of Defence as mentioned in Annexures-1 to 4 of the letter under the purview of scheme of productivity linked bonus. The applicants, admittedly are attached with 509, Army Base Workshop, Agra and Equipment Depot

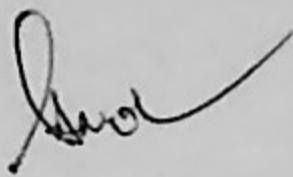
Workshop, E. M. E. Agra. From the perusal of the order and Annexure-3 attached thereto, it would appear that the employees of Static type of E. M. E. Workshop only are entitled to the benefit of productivity linked bonus. According to the decision of the Government of India, as contained in letter No. B/03132/Vol.-II EME /CIV-3 dated 22nd Sept. 1981, productivity linked bonus is not to be made to the civilian staff in Headquarters Technical Group E. M. E. and its Detachments E.M.E., E. M. E. School, E. M. E. Records, E.M.E.Centres, Combined Workshops, Advance Base Workshops etc as these establishments are not included in Annexure-III of the letter ibid. The employees of Detachment Technical Group-16(Inspection), E. M. E. Agra had agitated the question of non-payment of productivity linked bonus to them before Principal Bench of Central Administrative Tribunal in Original Application No.2094 of 1989. The Principal Bench after hearing the parties to the application has held that the employees of Detachment Technical Group No.16, E. M. E. Agra do not fulfil the conditions stipulated for payment of productivity linked bonus and accordingly dismissed the application by order dated 23rd May, 1994. Certified copy of the said order has been produced before us. We have perused the order and find that the applicants, who are employees of Detachment Technical Group-12 and Technical Group-17 are similarly placed as the employees of Technical Group-16, the applicants in O. A. No.2094 of 1989, decided by the Principal Bench.



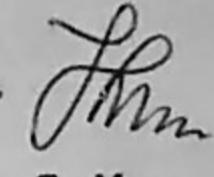
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Case before us, thus, is in para-materia with the case decided by the Principal Bench. Having heard the learned counsels for the parties and perused the record, we find ourselves in agreement with the finding of the Principal Bench in Original Application No. 2095 of 1989. Following the decision of the Principal Bench we find the applicants do not fulfil the conditions stipulated for payment of productivity linked bonus hence, this application fails and is accordingly, dismissed. There will be no order as to costs.



A.M.



J.M.

VKP/-