

Tribal

Allocation Yes

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

O.A. No. 460 OF 1988.
~~TAX NO.~~

DATE OF DECISION 12-7-1991.

D.N. Makwana & Ors. Petitioners.

Mr. K.B. Pujara, Advocate for the Petitioner(s)

Versus

Union of India & Ors. Respondents

Mr. M.R. Raval for Mr. P.M. Raval, Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. M.M. Singh, Administrative Member.

The Hon'ble Mr. R.C. Bhatt, Judicial Member.

1. Whether Reporters of local papers may be allowed to see the Judgement? *Yes*
2. To be referred to the Reporter or not? *Yes*
3. Whether their Lordships wish to see the fair copy of the Judgement? *No*
4. Whether it needs to be circulated to other Benches of the Tribunal. *Yes*

1. D.N. Makwana,
2. K.G. Vaishnav,
3. M.M. Gohil,
4. V.M. Joshi,
5. R.P. Joshi,
6. G.B. Thakarda,
C/o. All India Postal Employees
Union Class III and B.P.M.
Banaskantha Division,
Palanpur - 385 001. Applicants.

(Advocate: Mr. K.B. Pujara)

Versus.

1. Superintendent of Post Offices,
Banaskantha Division,
Palanpur 385 002.

2. Union of India
Notice to the Secretary
Department of Posts & Telegraphs,
Central Secretariat,
Govt. of India,
New Delhi. Respondents.

(Advocate: Mr. M.R. Raval for
Mr. P.M. Raval)

ORAL ORDER

O.A.No. 460 OF 1988

Date: 12-7-1991.

Per: Hon'ble Mr. M.M. Singh, Administrative Member.

The short question for our adjudication in this Original Application filed under section 19 of the Administrative Tribunals Act, 1985, is whether Danta and Ambaji are included in Tribal Pockets or Tribal Development Block notified from time to time by the Government of Gujarat for payment of Tribal area compensatory allowance to the six applicants of this application. There is no dispute between the parties that if Danta and Ambaji are included, the applicant employees posted in these places will be eligible for the payment. Controversy has arisen because payment was made to the applicants of this allowance on the basis that Danta and Ambaji are included. An audit party later raised the objection to the payment and

accordingly the respondents started recovery of the allowance paid in the past and stopped making further payment.

2. We may observe here ^{that} this is the second round of litigation on this issue. The first round started with filing of Special Civil Application in Gujarat High Court which came to be transferred to this Tribunal and registered here as T.A.No. 239/87. This application was disposed of by order dated 21.4.1988 of a bench of this Tribunal. This order held that the recovery was sought to be made without giving the applicants any prior notice or opportunity to explain why such recovery should not be resorted to and that such recovery cannot be made without giving opportunity to the applicants to explain. The order therefore directed that amounts recovered from the applicants including such of the applicants who have since retired be refunded within a period of two months from the date of the order and that the respondents are at liberty to pass a fresh order after giving the applicants an opportunity to show cause why the amount should not be recovered, giving justification thereof and pass appropriate orders for the purpose for the petitioners including the petitioners who have retired. Accordingly, the Superintendent of Post Offices Banaskantha Division issued a detailed notice to each of the applicants. A specimen of the notice is produced at Annexure A-10. A significant aspect of this notice is that according to the respondents, Ambaji and Danta towns are not included in the Tribal area for payment of allowance. To the notice, the applicants submitted their reply, each separately. A specimen copy of the reply is produced at Annexure A-11. The main burden of the applicants' reply is that in the Tribal Taluka or

Tribal Pocket, the name by which the Taluka and Tribal pocket is identified stands included in the pocket or tribal development area. The respondents have in their reply on the contrary, produced material record to show the names of villages which are included in Tribal Development Block and Tribal Pocket and their contention is that Danta and Ambaji do not figure in the list of the villages. This contention is taken on the basis of Project Officer, DPAP Agency Banaskantha district (in which Danta and Ambaji are included) furnishing this information to the Superintendent of Post Offices, Banaskantha, Palanpur by his reference dated 18.5.1979. To this reply no rejoinder has been filed by the applicants.

3. The applicants' reliance on the names by which the Tribal Pocket or Tribal Development Block is identified for contention that the towns of those names are included in the Tribal Pocket or Tribal Development Block is based on a number of resolutions of the Government of Gujarat issued in that regard from time to time. We are not persuaded by the submissions of the learned counsel for the applicants in this regard. Para 2 of Gujarat Government Resolution dated 1.12.75 produced by the applicants themselves (Ann., A-3) refers to how to deal with cases where headquarters of posts are outside the Block or the pocket and incumbents demanding the payment of allowance. The resolution clarifies that the allowance has to be paid on the basis of actual residence in such area or block. It has to be noted that the purpose of notification of such areas is to arrange extra-ordinary development facilities in those backward Tribal areas and while naming such pocket or area each such village has to be identified. A cluster of such villages is given a name as area or

pocket. The town by the name may or may not be included in the tribal area or pocket. No evidence has been submitted by the respondents before us that Danta and Ambaji are included in the area or pocket. On the contrary, the reply of the respondents brings out material for us to hold that Danta and Ambaji are not included.

4. In view of the above, the respondents cannot be directed to pay the tribal allowance. The application is liable to be dismissed. We dismiss it without any order as to costs.

R.C.Bhatt
(R.C.Bhatt)
Judicial Member

M.M.Singh
(M.M. Singh)
Admn. Member

ttc.