

CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

O.A. NO. 332/1992

~~**T.A. NO.**~~

DATE OF DECISION 14-02-1995

Girishbhai Sivabhai Patel **Petitioner**

Mr. A.M. Mehta **Advocate for the Petitioner (s)**

Versus

Union of India and others **Respondent**

Mr. Akil Kureshi **Advocate for the Respondent (s)**
Mr. N.R. Sahani, for resp. Nos.3,4 & 6.

CORAM

The Hon'ble Mr. N.B. Patel, Vice Chairman

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

JUDGMENT

1. Whether 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 fair copy of the Judgment ?
4. Whether it needs to be circulated to other Benches of the Tribunal ?

/ No

Girishbhai Sivabhai Patel,
S.S. Staff No.880,
O/O Accounts Officer (Computer),
Ahmedabad Telecom District,
Ahmedabad.

..... Applicant

(Advocate : Mr. A.M. Mehta)

Versus

1. The Union of India,
Through the General Manager,
Ahmedabad Telecom District,
Khanpur, Ahmedabad.
2. Deputy General Manager (Admn.),
Ahmedabad Telecom District,
Ramnivas Building,
Khanpur, Ahmedabad.
3. N.J. Bhatia - Cashier,
Accounts Officer,
Ahmedabad Telecom District,
H.Q. - I Ram Nivas Bldg. No.2,
Khanpur, Ahmedabad.
4. B.G. Patel - Cashier,
Accounts Officer (EA) (West),
Ahmedabad Telecom District,
Sabina Apartment,
Ellisbridge, Ahmedabad.
5. T.N. Jani - Cashier,
Accounts Officer (EA) (East),
Ahmedabad Telecom District,
Vivekanand Building,
Raipur, Ahmedabad.
6. K.B. Bhatia - Cashier,
Accounts Officer (EA) (Central),
Ahmedabad Telecom District,
'Vanijay Bhavan',
B/N Abad Dairy,
Kankaria, Ahmedabad.
7. K.V. Shah - Cashier,
Accounts Officer (EA) (East),
Ahmedabad Telecom District,
Vivekanand Building,
Raipur, Ahmedabad.

..... Respondents

(Advocates : Mr. Akil Kureshi
Mr. N.R. Sahani, for
resp. Nos.3,4 & 6)

J U D G M E N T

O.A. NO.332 OF 1992

Date : 14-02-1995

Per : Hon'ble Mr. K. Ramamoorthy, Member (A)

The present application has been filed seeking relief by way of setting aside the order passed by the respondents, at Annexure 'A' whereby the applicant's appointment as Group Leader under Pay Roll Savings Scheme has been terminated.

2. The brief facts of the case are as under. The applicant was appointed as Group Leader by the respondents in 1977 after specific selection of the applicant when Cashiers who were earlier requested to handle this work refused to do this work and when the department wanted to boost up the collections under this Scheme. Accordingly, the applicant started working in 1978 and was able to collect over 3700 accounts due to his sincere and diligent efforts. As a return for his work, the applicant gets 2½% commission on the business collected for the department. According to the applicant, after the diligent initial efforts put in by the applicant, whereby the work had been put on an even keel, the respondent department has suddenly decided to terminate the services of the applicant and thereby deprive him also of the additional earnings which he used to get by way of commission for the business collected. Though in his rejoinder, he has specifically stated that the order itself is constitutionally illegal, during the arguments, he contended that he would be satisfied, if his entitlement to receive the commission for the work which he had

mobilised in the Pay Roll Savings Scheme is protected and continued to be given to him.

3. In their reply, the respondents have stated that in the scheme as envisaged, normally it was the Cashier/Disbursing Officer who was to be appointed as Group Leader and only when the Cashier/Disbursing Officer was unwilling to undertake the work, some other Officer was chosen to work as Group Leader. It is true that in the beginning, all the Cashiers were not willing to undertake this work and persons such as the present applicant were appointed as Group Leaders. However, as and when Cashiers have shown their willingness to work as Group Leaders, they were given the work as Group Leaders. Pay Roll Savings Scheme envisages that this work be entrusted to the Cashiers by designation which post is also filled in on a tenure basis only. In the present case, the tenure of the applicant as Group Leader extended over 15 years which is more than the normal tenure of a Cashier and even on the ground of equity, the question of the present applicant being continued indefinitely does not arise. The appointment of the applicant as Group Leader was never intended to be an appointment for the whole period of the applicant's service.

12 4. In addition to the written reply filed by the department, replies had been filed by respondent Nos.3,4, and 6, who are presently working as Cashiers and who have been selected under the impugned order to discharge the functions as Group Leader under the Pay Roll Savings Scheme. The Pay Roll Savings Scheme is an arrangement under which an employee voluntarily authorises the employer to deduct from his salary every month a fixed amount of deposit in various schemes of the Post Office. It is the contention of respondent Nos.3,

4 and 6 that the Pay Roll Savings Scheme involved the following 7 types of specific clerical duties, which are to be carried out by the Cashiers, concerned with the disbursements of the salary of the individual employees:

1. Advice deduction under the Scheme from individual salaries to Computer Section, every month.
2. Prepare statements of deduction of each salaried employees, collect all the pass-book of the employees.
3. Ensure timely payment of cheque for the above amount by visiting Post Office along with the statement and pass-books.
4. Advice renewal of Scheme to the employees, open new accounts and effect changes in the deductions when desired by the concerned employees.
5. Help the concerned employees in obtaining loans against their savings.
6. Mid-term or sudden closing of the Savings Account is also required to be arranged whenever concerned employee so desires.
7. Retain the savings pass-books of all the employees in the group.

Therefore, any commission that is paid will have to normally go to those persons who perform the functions as at present. As an additional point, respondent Nos. 3, 4 and 5 have also pointed out that the Scheme envisages the Cashier by designation to be the Group Leader and the post of Cashiers are given by rotation from employees for a fixed tenure only. This also ensures that the commission is received by the Cashiers who actually do the work and the commission does not become the monopoly of any single person. In point of fact, the respondent Nos. 3, 4 and 5 would be in their jobs only upto June, 1995; May, 1995 and September, 1995 respectively.

5. The applicant has not been able to show a single authority to the effect that the appointment of the applicant was for all times to come. In fact, he himself has admitted that he was appointed in view of the fact that the Cashier then was unwilling to undertake this job. Moreover, the Scheme also envisages that the Cashier/Disbursing Officer was normally be the Group Leader. The clarification issued by the D.G.P. & T in its letter of 11th November, 1980 is reproduced below and reiterates the above point:

"Under the Pay Roll Savings Scheme, Cashiers/Disbursing Officers are to be Group Leaders to collect and deposit the money. Recently a case came to notice, in which an official other than the Cashier/Disbursing Officer was entrusted with PRSS work. Whether this could be allowed, was considered within the frame of the PRSS rules and in consultation with the Department of Economic Affairs, Ministry of Finance. While under the letter of the rules it is not permissible now, the need for a relaxation to suit exceptional contingencies is realised. It has, therefore, been decided with the concurrence of the Department of Economic Affairs that as a matter of course, Cashier/Disbursing Officer of the office should be the PRSS Group Leader, but where the Cashiers/Disbursing Officers unwilling to undertake the work, some other official may be chosen as Group Leader, but desirably some one in an allied position like the Accountant, for example".

6. We have gone through the Scheme as well as the averments made by the applicant and the respondents. The counsel for the applicant and both the groups of respondents, namely: the department as well as the Cashiers, who are now willing to undertake the work, were heard at length. The main contention of the applicant that the applicant had undertaken the work when the Cashier in question was not willing to do the work is an accepted fact. The fact, however, remains that the Cashier who declined the work in the beginning is not the same as any one of the present respondents. The fact that the work also involved certain motivation component is also not in dispute. At the same time,

it cannot also be disputed that the main motivating factor to form the Scheme is the fact of benefits that otherwise accrue to the savers including tax benefits and the fact that saving public was confined to the departmental employees is not a factor which could be overlooked. It is a fact that certain accounts also accrue automatically to an office by the mere fact of a transfer of an employee from one place to another.

7. In answer to a cursory question put by us, it was intimated to us that the monthly earnings by way of commission did range from Rs.4,000/- to Rs.15,000/- per month in case of Group Leaders as the present applicant. The fact that the applicant had a tenure of 15 years during which he received commission of a fairly substantial amount should thus more than compensate for the motivation factor put in by the applicant.


8. We cannot agree even with the limited plea of the applicant that he should continue to receive the commission for the work registered during his tenure as Group Leader. Apart from the fact that the applicant did receive commission for all the work including accounts which were already there on the date he took over and also for accounts which came to his Division by way of transfer of employees, such a distinction of accounts for the purpose of commission was not envisaged nor is it feasible as per the present Scheme. In the Scheme itself, it is also specifically stipulated that the remuneration by way of commission is for "undertaking the work of effecting recoveries and thereafter depositing them in the Post Office". The work as a Group Leader being in the nature of additional work

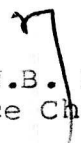
only, the Tribunal cannot uphold the contention that applicant has a right to be entrusted this additional work or that such termination should be preceded by hearing. In the impugned order, the work was being entrusted only to the persons who have been envisaged to be appointed as Group Leader under this Scheme.

9. As regards the further point made by the applicant that the applicant was continued to be given this work for 12 years, even after the letter of 11-11-1980 referred to in para 5 above, this by itself also will not entitle the present applicant to continue to be the only Group Leader for the purpose.

10. Under the circumstances, we see no merit in the application of the present applicant seeking to restrain the department from appointing Cashiers as originally envisaged as the Group Leader for the purpose of this Scheme. In view of the fact that the applicant had received commission for the period he served as Group Leader, we do not see any equity also in the claim of the applicant for continuing the benefit of receiving of commission even for the work booked during his term of office as Group Leader.

11. The application, therefore, fails and is hereby dismissed. No order as to costs.


(K. Ramamoorthy)
Member (A)


(N.B. Patel)
Vice Chairman