

14

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

O. A. No. 267 of 1991

Cuttack this the 8th day of NOV, 1995.

Proof Employees Union

...

Applicants

Vrs.

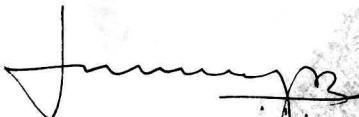
Union of India & Others

...

Respondents

(FOR INSTRUCTIONS)

1. Whether it be referred to the reporters or not? No.
2. Whether it be circulated to all the Benches of the Central Administrative Tribunals or not? No.

P. 

(P. SURYA PRAKASH)
MEMBER (JUDICIAL)



(H. RAJENDRA PRASAD)
MEMBER (ADMINISTRATIVE)

SEP 95

15
IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH : CUTTACK.

O. A. NO. 267 OF 1991

Cuttack the 8th day of Nov 1995.

CORAM :

THE HONOURABLE MR. H. RAJENDRA PRASAD, MEMBER(ADMN.)
AND
THE HONOURABLE MR. P. SURYA PRAKASHAM, MEMBER(JUDICIAL)

- - - -

PROOF EMPLOYEES UNION
Sunhat, Balasore represented
by its President
Shri Ananta Kumar Majhi.

2. Ananta Kumar Majhi,
Sunhat, Balasore ... Applicants

x

By the Applicants ... M/s. Prabir Palit, Biswajit Mohanty,
D. Mohanty, Mihir Mohapatra,
Advocates.

Versus

1) Union of India represented by
Ministry of Defence, New Delhi
through Under Secretary.

2) The Scientific Adviser to the
Minister of Defence and Director
General of Research and Development
Defence Research and Development
Organisation (DRDO) Headquarters,
Government of India, Ministry of
Defence DHQ, P.O. New Delhi-11.

3) The Commandant,
Proof and Experimental Establishment
Chandipur, Balasore. ... Respondents

By the Respondents ... Mr. Ashok Mishra, Senior
Standing Counsel (Central).

O R D E R

H. RAJENDRA PRASAD, MEMBER (ADMN.)

A substantial number of employees serving

in the Proof and Experimental Establishment, Chandipur, reside in the accommodation provided by the Government at Balasore which is at a distance of 13 Km. from their work-place. They are also provided subsidised transportation facilities to commute to their work in view of the lack of civilian housing and public transport near their work site. The applicants claim that this facility was in fact no less than a condition of their service. Although it is not clearly brought out in the Original Application or in the counter-affidavit, the staff was perhaps transported in the unit transport free of cost prior to 1965, in which year two buses were bought for the purpose.

2. In November, 1965, a nominal charge of Rs.10/- was prescribed for the personnel who opted to avail of this facility. The number of buses is said to have increased from 2 to 5 in course of time, and the fare was raised, too from Rs. 10/- to 12.50/-.

3. Sixteen years later, in May, 1991, the charge was enhanced again and fixed at double the prevailing rates, viz; from Rs. 12.50 to Rs. 25/-. The revised tariff was to be effective from 1st March, 1991.

3. The applicants contest the upward revision of the bus-fares on the following grounds:

- i) the increased fares are applicable only to the personnel serving under the Service Chiefs and not to others like themselves because they are not under the (three) Armed Forces Headquarters;

1.9.1.1

17

- ii) free transport is provided to employees in similar establishments in other stations;
- iii) They are entitled to free transportation to their work place as a condition of service in view of the total lack of residential accommodation - government or private - at or near their work-place;
- iv) the fare recovered at enhanced rate amounts to profiteering by the Government at the cost of the users since an expense of only Rs. 8,306.50 is incurred by the authorities in running the vehicles, whereas the authorities would collect nearly Rs. 12,000/- from the commuters.
- v) the question of sanction of conveyance allowance to the civilian employees of the establishment is awaiting arbitration and it is premature, therefore, to hike the existing charges at this stage during the pendency of arbitration;
- vi) the enhanced fares will result in seriously upsetting the monthly domestic budget of the employees who are as it is repaying various advances drawn by them.

4. Basing their argument in the above-cited grounds the applicants pray for the quashing of Commandant, Proof and Experimental Establishment, Balasore, D.O. Pt. I No. 310/91 dated 23rd May, 1991.

5. The recovery of only the arrears of the increased fares was stayed by this Tribunal on 22nd August, 1991, when the case came up for admission. The interim stay was vacated on 25th September, 1991 at the urging of the Respondents.

T. S. J. D. M.

18

6. The respondents, in their counter-affidavit submit that:

- i) the provision of subsidised transport is essentially a welfare measure and not an enforceable right, much less is it a recognised condition of service;
- ii) an employee is normally expected to travel between his residence and the work-place at his own cost and under his own arrangement;
- iii) the City Compensatory Allowance, where granted, and periodical revisions of Dearness Allowance are supposed to take care of the increased costs of living;
- iv) subsidised transport is nevertheless provided purely as an amenity subject to certain conditions;
- v) it would be un-realistic to insist that the rates prescribed in 1965 should hold good, unaltered, several decades later as (a) the type of transport provided to the employees has, in the meanwhile, been upgraded in terms of comfort and suitability (a 1-ton truck was provided to convey the employees earlier, comfortable 52-seater buses have been provided for the same purpose now) (b) the cost of POL and spares, besides the maintenance of the vehicles, not to speak of the cost of the crew (personnel), has increased quite steeply in the meanwhile.
- vi) the fares are revised periodically on a country-wide basis taking into consideration all factors which necessitate such periodic revision, and keeping in view the fact that similarly placed employees in various defence establishments throughout India are to be treated alike. The present applicants cannot claim any special privilege or status which is not available to their similarly circumstanced colleagues elsewhere;

Signature

- vii) **public servants** are classified differently on the basis of their duties and responsibilities, the nature of tasks entrusted to or handled by them, and are consequently placed in different scales of pay. Fixing varying rates of fares in respect of different pay scale groups cannot be termed discriminatory or violative of any Article of the Constitution;
- viii) no matter concerning the sanction of conveyance allowances to civilian employees is awaiting arbitration, as claimed by the applicants;

7. The applicants place a considerable emphasis on the following:

- a) the rates fixed in 1965 were sanctioned by the President of India whereas the subsequent orders of enhancement do not indicate a presidential assent for the impugned revision;
- b) the revised rates are applicable only to the staff serving under the three Chiefs and not to the employees of the Proof and Experimental Establishment;
- c) there is a difference between the expression "Civilian Employees of Proof & Experimental Establishment" & "Defence Civilians" as the two expressions denote or refer to two dissimilar groups of personnel. The various revisions in the fares after 1965 pertain to defence civilians and not at all to themselves, i.e., Civilian Employees in the Proof & Experimental Establishment;
- d) the cost of fuel is borne by EME unit at the station and not by the Proof and Experimental Establishment.

Signature

3. Much of the argument advanced by the applicants revolves around the above four grounds. There is an evident confusion in the applicants' argument regarding the Presidential sanction. The Government of India in Raksha Mantranay letter No. 37199/RD-27/12708 D(R&D) dated 24.11.65 (Annexure-1) conveyed the sanction of the President for the acquisition of two 52-seater passenger type buses for the Proof and Experimental Establishment, for conveyance of the Civilian Employees. The sanction of the President was obviously for the purchase and supply of the buses, in view of the high cost involved in the acquisition of these vehicles which was beyond the financial competence at any other authority. The Presidential sanction was neither required, nor issued for the fares or the rate of recovery from the users of the subsidised transport. This is made clear in para-7 of the same Memo which speaks of Government of India letter on the subject. Even the annexure to this letter containing the rates of recovery refers only to the Ministry of Defence Orders. This is appropriate since presidential sanction is neither needed nor was ever issued for fixing routine nominal fares for the use of ^{a routine} common facility. The applicants' argument on this score is not acceptable.

9. Although much effort has been expended on drawing an imaginary distinction between the 'Defence Civilians' and 'Civilian Defence Employees', we do not think that such distinction either exists or needs really to be made. All Civilian Employees regardless of any marginal variations

of nomenclature, are all under the Defence Ministry and what applies to one shall obviously have to apply to all. No artificial or unsubstantiated distinctions can count when the facility that is being enjoyed is ^{the} same for everyone.

10. As regards the contention that the revised rates are applicable only to the Civilian Staff under the three service chiefs and not to the staff of the D.R.D.O., we do not find this to be a reasonable ~~plea~~ at all. The Civilian staff working in the three wings of the Armed Forces enjoy the same benefit and therefore become liable to the same recovery as those employed in the units and offices under the Defence Research and Development Organisation. No convincing case has been made out to show how and why the personnel of the Proof and Experimental Establishment should be accorded a separate status or special advantage or benefit which is not available to others.

11. The applicants have given their own calculation of the cost of running the buses and assert that the Government would be collecting more from the users of the facility than the actual costs incurred by it on the running of these buses. Apart from the fact that the calculation

1.5 july 1988

furnished by the applicants seem to be purely notional, if not actually fanciful, the figure arrived at by the applicants ignores the costs of spares, POL, maintenance and the crew. This argument is therefore not accepted.

12. The applicants next argue that inasmuch as the fuel and maintenance is to be issued/borne by EME section, the cost thereof is not the responsibility of the P & EE and any recovery from them by the latter is impermissible. This is a patently fallacious argument. All that was specified was that the maintenance and repair, including spares, will be taken up by the local EME workshop (para-6 of Annexure-1). It is made clear in the same para that the buses will be treated as Unit transport and that the requirements of fuel will be drawn as for the other service vehicles in the Unit. This would mean that the P&EE would supply the POL and the manpower for running the service, whereas the local EME workshop will attend to third-line maintenance and repairs. No other inferences need to be drawn from this simple arrangement. It is to be pointed out too that, regardless of which Unit meets what cost on account of these vehicles, the entire expenditure shall have to be borne by the Government. The Government, therefore, have a right to recover a reasonable amount as fares from the

— T. G. Jackson

users of the facility. It has been stated that the Orissa Transport Corporation charges Rs. 4/- per one-way trip between Balasore and Chandipur which works out to Rs. 8/- per person per day. This adds upto roughly Rs. 160/- per individual per month on an average if Sundays and other holidays are excluded. It may be added parenthetically that the condition of travel in the PEE buses would be more comfortable with no over crowding as would be the case in civilian bus service. The applicants are required to pay less than a sixth of this amount. Nothing could be more reasonable than this. It is evident that the fares collected even at the enhanced rates are quite heavily subsidised.

13. The applicants would like the 1964 rates to be ~~for and~~ un-changed beyond thirty years. This does not seem to be a reasonable expectation since the pay, and more particularly the allowances, have gone up considerably and repeatedly during the intervening years. It would be unrealistic to insist that subsidies should keep increasing on the one hand without a corresponding (in this case nominal) increase ~~in~~ the legitimate levies.

14. The applicants have not established any convincing case in support of their various claims. We are, therefore,

1.5/1.1

24

10

unable to accept their contentions or their prayers.

The application fails. No costs.



(P. SURYA PRAKASHAM)
MEMBER (JUDICIAL)



(H. RAJENDRA PRASAD)
MEMBER (ADMINISTRATIVE)

SEP 95

KN Mohanty.

In open court
pronounced on 8th Nov 1995.
on

Marasimha Sahu.

Member (Administration)
on tour at Cuttack.