

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH :CUTTACK

Original Application No.308 of 1991

Date of decision: November 2, 19 93

Postal Printing Press Employees Union ... Applicant

Versus

Union of India and 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 *NO* the Central Administrative Tribunals or not?

H. Rajendra Prasad
(H. RAJENDRA PRASAD)
MEMBER (ADMINISTRATIVE)
02 Nov 93

K. P. Acharya
(K. P. ACHARYA)
VICE-CHAIRMAN

2/11/93

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- Versus -

Union of India and others .. Respondents

For the Applicants ... M/s. S.K.Pattnaik,
P.Pradhan,
A.Guru,
Advocates

For the Respondents ... Mr.Aswini Kumar Mishra,
Senior Standing Counsel
(Central).

CORAM:

THE HONOURABLE MR.K.P.ACHARYA, VICE - CHAIRMAN

AND

THE HONOURABLE MR.H.RAJENDRA PRASAD, MEMBER (ADMN.)

JUDGMENT

K.P.ACHARYA,V.C.

In this application under section 19

of the Administrative Tribunals Act,1985, the Postal
Printing Press Employees Union represented by its
General Secretary Shri Sambhunath Tiadi praye to
quash the order contained in Annexure 7 holding that
absence of the Members of the Union on 3rd October,
1990 to be treated as authorised one.

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2. Shortly stated the case of the petitioners is that 2nd October, 1990 was declared as holiday on account of the birth day of 'Mahatma Gandhi'. On the same day, an announcement was made over the Television and other medias that the Government of India has declared 3rd October, 1990 as a holiday owing to the birth day of 'Prophet Muhammad'. Hearing in the news over the television and going through the news papers, the Members of the Union, who are employees in the Postal Printing Press did not attend to their duties. Non-attendance of the members of the Union, to their duties, was treated as unauthorised by the competent authority and ordered deduction of the pay of the members of the union for 3rd October, 1990. Hence this application has been filed with a prayer to quash the said order.



3. In their counter, the opposite parties, maintain that the members of the Union who are employees of the press are categorised as operative staff and hence they are not entitled to enjoy the holiday announced for the birth day of Prophet Muhammad because such declaration was not made under the Negotiable Instrument Act of 1881. According to the Opposite Parties, the members of the Union were not entitled to their pay for the 3rd October, 1990 and rightly the competent authority ordered deduction of their pay for the said day. Finally, it is maintained that the case being devoid of merit is liable to be dismissed.

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4. We have heard Mr.S.K.Patnaik learned counsel appearing for the Petitioners and Mr.Aswini Kumar Mishra learned Standing Counsel (Central).

5. Mr.Patnaik learned counsel appearing for the Petitioners invited our attention to the contents of Annexure-9 in which the Manager of the Printing Press while addressing a letter to the Postmaster General, Orissa Circle stated that the Postal Printing Press is a factory. and in reply to this contention, Mr.Aswini Kumar Misra learned Standing Counsel (Central) submitted that the statement of the Manager that the Press is a factory should not be taken as a conclusive. Even if Mr.Mishra's contention is accepted, then from Annexure-5, it would appear that the Deptt. of Personnel and Training vide their letter dated 26th September, 1990 referring to the Department's Office Memorandum No.12/11/89-JCA dated 19th July, 1989 has stated as follows:-



" The list of holidays during 1990 was circulated vide this Departments O.M. No.12/11/89-JCA dated 19.7.1989. It has now been decided to include Pro phen Mohammad's birthday in the list of holidays for the Central Govt.offices i.e. Administrative offices/as well as Central Govt.organisations which include industrial commercial and trading establishments".

According to Mr.Patnaik learned counsel appearing for the Petitioner the press comes within the provisions

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contained under the Industrial Disputes Act and therefore,

the press is nothing but an Industry. Therefore, according to Mr. Pattnaik learned counsel appearing for the Petitioners, the Ministry having ordered that holiday on account of the birth day of Prophet Mohammad (3d October, 1990) could be made available to the Industrial Establishments, the members of the Union who are petitioners before this Bench had rightly availed leave on 3rd October, 1990 and there has been an illegal order passed by the competent authority to deduct the pay of the members of the Union on the said day.

6. We would not like to express any opinion on this issue, because admittedly, the petitioners have received their pay for 3rd October, 1990 and further admitted case of the parties before us ^{is} that the matter has been referred to the Ministry of Personnel and Training for a decision as to whether holiday declared for 3rd October, 1990 would be made available to the employees of the Printing Press. We do not like to express any opinion because it may embarrass the authorities in the Ministry to pass an order according to law. Our further opinion is that the Members of the Union namely employees in the press ^{may} await the decision of the Ministry and thereafter if they ^{feel} aggrieved, they could ^{have} approached the portals of this Court. But in the absence of an order having been passed by the competent authority, it is premature on ^t the part of the petitioners to rush ^{to} this court.



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However, we would dispose of this case as premature giving liberty to the petitioners to approach this bench if they receive any adverse order from the Ministry or from any other concerned authority.

7. Mr. Patnaik learned counsel appearing for the petitioners invited our attention to the order bearing No. PP/14-17/91 dated 16th June, 1993 issued by the Manager, Printing Press that as Original application No. 308 of 1991 has been dismissed by this Bench, consequently 3rd October, 1990 is not treated as a holiday for the Industrial Unit of the press. Therefore, it is decided to recover the salary of the said day from the payable of the official concerned.

8. This order was passed because on 24th May, 1993 this original application was dismissed for default and thereafter vide order dated 23rd June, 1993 passed in Miscellaneous Original Application No. 379 of 1993 the order of dismissal was recalled and Original Application No. 308 of 1991 was restored for hearing and therefore, we have heard this case today. It is further directed that the notice dated 16th June, 1993 referred to above, shall not be operated till final orders are passed by the Ministry regarding the disputed question as to whether the petitioners namely the employees in the press are allowed to avail leave for

3rd October, 1993.



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9. Thus, the application is accordingly disposed of. There would be no order as to cost.

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Member (Administrative)
02 Nov 93

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2/11/93,
Vice-Chairman

Central Administrative Tribunal,
Cuttack Bench, Cuttack/K. Mohanty
November 2, 1993.

