

8

13

CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO.218 OF 1992
Cuttack, this the 14th day of July, 1997

Bharatiya Extra-Departmental
Employees' Union

....

Applicant

Vrs.

Union of India and others

....

Respondents

(FOR INSTRUCTIONS)

1. Whether it be referred to the Reporters or not? Yes
2. Whether it be circulated to all the Benches of the
Central Administrative Tribunal or not? NO

Somnath Som
(SOMNATH SOM)
VICE-CHAIRMAN 14.7.97

9

CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO. 218 OF 1992
Cuttack, this the 14th day of July, 1997

C O R A M:

HONOURABLE SRI SOMNATH SOM, VICE-CHAIRMAN

...

Bharatiya Extra-Departmental Employees'
Union, Cuttack North Divisional Branch,
through Narayan Mohapatra, son of late
Balananda Mohapatra, aged about 53 years,
At/PO/District-Cuttack

Applicant.

Vrs.

1. Union of India, represented by its
Secretary, in the Department of Posts,
Dak Bhawan, New Delhi.
 2. Chief Post Master General, Orissa Circle,
Bhubaneswar, District-Puri.
 3. Superintendent of Post Offices,
Cuttack North Division, Cuttack
- Advocates for applicant - M/s R.N.Naik, A.Deo,
B.S.Tripathy.
- Advocate for respondents - Mr.Ashok Mishra.

O R D E R

SOMNATH SOM, VICE-CHAIRMAN In this application under Section 19 of Administrative
Tribunals Act, 1985, Bharatiya Extra-Departmental Employees'
Union, Cuttack North Divisional Branch, has prayed for a direction
to the respondents to give them benefit as per the judgment
of the Tribunal in O.A.No.375 of 1988 as clarified further in
order dated 20.11.1989 in M.A.No.392/89. There is also a prayer
to treat the members of the Union at par with E.D.employees
of Cuttack City Division and Cuttack South Division. The facts
of this case fall within a small compass and can be briefly stated.

Somnath Som
14.7.97

2. On the basis of recommendations made by R.R.Savoor Committee on Extra Departmental System in respect of fixation of remuneration of Extra Departmental Agents, Department of Posts had issued circular dated 15.7.1987. The present applicant had filed O.A.No. 375 of 1988 praying for a direction to the respondents to grant them the benefit of the above circular on the basis of assessment as on 15.7.1987 and also to pay them the arrears. O.A.No.375/88 was disposed of in order dated 24.10.89. The learned Judge disposing of the O.A. noted that the relief asked for by the applicant Union was to allow them emoluments and allowances according to the circular issued and if really they had in the meantime received the amount, the application had really become infructuous. But as there was no material about non-payment of emoluments or payment having been made, a direction was issued to the respondents to give the benefit to the applicant Union according to the circular with effect from 1.1.1986. In M.A.No.392/89 the respondents wanted a clarification to be made in the operative portion of the order dated 24.10.1989 in OA 375/88 indicating that emoluments should be worked out and paid on the basis of assessment already made. In consideration of that, the learned Judge held in his order dated 20.11.1989 that emoluments should be fixed and payments made on the basis of assessment already made. But in future if further assessment is ordered to be made, then the Department would not be precluded from making such re-assessment.

3. In the present application, the applicant Union has stated that on the basis of circular dated 15.7.1987 Senior Superintendent of Post Offices, Cuttack City Division

*Submitted
14.7.97*

and Senior Superintendent of Post Offices, Cuttack South Division have already passed orders giving the benefit of the new scale of emoluments, but the E.D. employees of Cuttack North Division have not been given the benefit under the circular. It is further alleged that even after the orders were passed in O.A.No. 375/88 and M.A.No.392/89, proper calculation was not made in the sense that all E.D. Agents working under Cuttack City Division and Cuttack South Division are getting the maximum monthly allowances, but E.D. employees working under Cuttack North Division are not getting the same benefit. In view of this, the applicant has come up with the prayer earlier mentioned.

4. Respondents in their counter have submitted that the emoluments of E.D. Agents have been worked out by Superintendent of Post Offices, Cuttack North Division, scrupulously in accordance with the circular dated 15.7.1987 and payment is also being made. It has also been submitted that the assessment of workload is a continuous process depending upon the workload which may change from time to time. The respondents have specifically denied the assertion that all E.D. Agents in Cuttack City Division and Cuttack South Division are getting the maximum allowance payable which is Rs.420/- per month. The respondents have asserted that in Cuttack City Division and Cuttack South Division, the E.D. Agents are being paid on the basis of assessment of workload strictly in accordance with the circular dated 15.7.1987.

*Submitted
14.7.97*

5. I have considered the submissions of the learned lawyer for the applicant and Sri Ashok Misra, learned Senior Panel Counsel appearing on behalf of the respondents, and have also perused the record. As has been noted by the Tribunal in their final

order dated 24.10.1989 in O.A.No. 375/88, there is no dispute between the parties about applicability of the circular dated 15.7.1987. The method of assessment of workload has been prescribed in the circular in very great detail and there is very little scope of any subjective assessment in the matter. The workload is assessed by giving points and within a range of point, minimum and maximum allowances have been prescribed. In view of this, it is not possible to accept the contention of the applicant that all E.D.Agents in Cuttack City Division and Cuttack South Division are getting the maximum allowance payable under the circular irrespective of their workload. If this be the case, that would evidently be a case of over-payment and would not justify similar treatment of the E.D.Agents of Cuttack North Division. A direction has already been issued by the Tribunal in O.A.No. 375/88 to fix the allowances as per assessment to be made in the manner prescribed in the circular dated 15.7.1987 and to make payment. The case of the respondents is that this has already been done for the E.D.employees of Cuttack North Division and payment has also been made. For any change in the workload, assessment is also being made from time to time strictly in accordance with the circular dated 15.7.1987. The applicant has not come up with any specific case of any E.D.Agent whose workload has not been assessed strictly in accordance with the relevant circular and who is consequently ^{getting} less allowances than what he would have been entitled to under the circular. In view of the above, I hold that the applicant has not been able to make out a case of discriminatory treatment.

102
14.7.97

13

: 5 :

6. In the result, the application fails and is dismissed
but without any order as to costs.

Somnath Som
(SOMNATH SOM)
VICE-CHAIRMAN 14.7.97

NN/PS