

CENTRAL ADMINISTRATIVE TRIBUNAL: CUTTACK BENCH:
C U T T A C K.

Original Application No.719 of 1993

Cuttack this the 20th day of November, 1996.

Jayakrishna Pattnaik and others ... Applicants

Versus.

Union of India and others ... Respondents

(FOR INSTRUCTIONS)

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

Narashankar
(N. SAHU) 20/11/96
MEMBER (ADMINISTRATIVE).

CENTRAL ADMINISTRATIVE TRIBUNAL: CUTTACK BENCH: CUTTACK.

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C O R A M :

THE HONOURABLE MR. N. SAHU, MEMBER (ADMINISTRATIVE).

....

1. Jayakrishna Pattnaik, Stenographer.
2. Sachidananda Mohanty, Stenographer.
3. Jayakrishna Das, Clerk Grade-I.
4. Smt. Hemalata Khosla, Farash.
5. Smt. Priyambada Satpathy, Clerk Grade-II.
6. Suhas Mohanty, Programme Executive.
7. B.K.Murty, Stenographer.
8. Kunjabihari Nanda, Announcer.
9. Muralidhar Sahoo, Producer.
10. Dipak Samantarai, Programme Executive.
11. Bijaya Kumar Mishra, Staff Artist.
12. Ganesh Chandra Das, Music Composer.
13. Smt. Bhanumati Sahoo, Music Composer.
14. Smt. Manjushree Das, Clerk Grade-II.
15. Sudhir Ch.Majumdar, Clerk Grade-II.
16. Smt. K. Savitri, Clerk Grade-II.
17. Digambar Gomango, Accountant.
18. Krishnapada Majumdar, Clerk Grade-II.
19. Ramachandra Jamuda, Technician.
20. A. Gulapi, Motor Driver.
21. Subash Ch.Pattanaik, Clerk Grade-II.
22. A. Surya Rao, Stenographer.
23. Nilamadhab Subudhi, Trans. Executive.
24. Kalikinkar Mishra, Pro. Executive.
25. Tarapada Biswas (T.P.Biswas) Clerk Grade-II.
26. Muralidhar Patnaik, Peon.
27. Radhakrishna Rath, Engg. Assistant.

28. Ashok Kumar Mishra, Announcer.
29. N.K.Bhatra, Farm Radia Officer.
30. Basu Harijan, Safaiwala.
31. S.N.A.Jani, Security Guard.
32. Smt. Hasai Harijan, Ex-Safaiwala.
33. Bhagat Mahajan, Security Guard.
34. T. Chandrasekhar, Clerk Grade-II.
35. R.N.Mallik, C.G.I.
36. G. Trimurty, Clerk Grade-II.
37. Pradip Patra, Music Composer.
38. D.Rajeswar Rao, Asst.Engineer.
39. Simanchal Mandal, Trans.Executive.
40. Prabir Kr. Mohanty, Sr.Technician.
41. L.N.Padhi, Sr. Technician.
42. Sashibhusan Das, Pro.Executive.
43. Singrai Majhi, Clerk Grade-I.
44. Sripati Mohan Biswas
45. Jyotiprakash Patnaik, Clerk Grade-I.
46. Mukunda Pradhan, Sr. Engg. Assistant.
47. Niranjan Das, Sr. Engg.Assistant.
48. Ramachandra Kissan, Sr. Technician.
49. Prafulla Kr. Nanda, Sr.Technician.
50. B.P.Bhoi, Clerk Grade-I.
51. D.Devdas, Ex-Sr.Engg.Assistant.
52. V.L.N.Pattnaik, Sr. Technician.
53. P.K.Mohapatra, Sr.Engg .Assistant.
54. Mrutunjaya Padhi, Security Guard.
55. Ratan Nayak, Security Guard.

All are employees of All India Radio, Station,
at Jeypore, P.O.Jeypore, District-Korapur.

... APPLICANTS.

By the Advocate :-

Shri P.C.Kar and J.Gupta.

Versus.

1. Union of India, represented by the Secretary, Ministry of Information and Broadcasting, New Delhi.

2. Director General, All India Radio, Akashvani Bhawan, New Delhi- 110 001.
3. Assistant Station Director, All India Radio, Jeypore-764 001, District- Koraput.

... RESPONDENTS.

By the Advocate :-

Shri Ashok Mohanty,
Senior Standing Counsel.

.....

O R D E R.

N. SAHU, MEMBER (ADMINISTRATIVE): 55 (Fifty-five) petitioners have joined in this petition to claim payment of Project Allowance in view of the judgment passed in Review Application No. 6/89 with interest. In R.A.No.6/89 arising out of O.A.No.131/88 this Tribunal directed payment of Project Allowance to the applicants in that O.A. similar to other Central Government employees posted at Jeypore. Those applicants were accordingly paid and the order in R.A.No.6/89 has been fully implemented.

2. It is urged in the counter affidavit as well as at the time of hearing that the payment of Project Allowance to all similarly placed persons are under active consideration of the Ministry. The applicants also submitted separate applications to respondent No.3 for grant of Project Allowance. In the counter affidavit it is stated that this O.A. has been filed four years after the judgment in R.A.No.6/89 and hence it is not maintainable. It is further submitted that the judgment dated 25.7.1989 is a judgment in personam but not in rem and therefore, the present applicants are not entitled to any relief.

3. The order of this Bench in R.A.No.6/89 was dated 25.7.1989. There was a representation to the Director General, All India Radio, Akashvani Bhawan, New Delhi,

respondent No.2. There was no response to this representation; as a result the applicants have filed the present Original Application.

4. In order to appreciate the background, certain relevant paragraphs of the judgment dated 25.7.1989 in R.A.No.6/89 are extracted hereunder :

"3. In order to appreciate the case of the applicant for review it is necessary to re-count here the circumstances leading to the filing of the O.A.No.131/88. The two applicants in that case were getting the Project Allowance which was sanctioned from time to time from 1.3.1981 to 5.6.1987 when the Director General, All India Radio, New Delhi instructed the Station Engineer, All India Radio, Jeypore by his letter dated 5.6.1987 to recover the amount paid to the staff on account of Project Allowance on the ground that the applicants were also getting House Rent Allowance. The Administrative Officer, Jeypore Radio Station thereupon issued orders dated 20.4.1988 for recovery of the Project Allowance paid to the applicants from March, 1981 till February, 1987. xx x x x x x x

"3. Mr.Kar has contended that the applicant who was one of the staff of the All India Radio posted at Jeypore should be given at least 75% of the Project Allowance sanctioned on the strength of this letter and to deprive him completely of the Project Allowance would go against the instructions of the Government of India. Mr.Kar has therefore urged that the judgment in O.A.No.131 of 1988 should be reviewed for granting the applicant 75 per cent of Project Allowance. He has but tressed of his argument by referring to the payment of Project Allowance at this rate to the Central Government Employees of other Departments stationed at Jeypore. In this connection he has brought to my notice a copy of the letter No.F.No.A.27823/21/84-EGI dt.15.6.87 of Government of India, Ministry of Finance (Department of Expenditure) addressed to the Controller & Auditor General of India, New Delhi(Annexure-19). This letter conveys sanction of the President to continued grant of Project Allowance to the Resident Audit Staff and Divisional Accountants posted at Upper Kolab Project, for the period from 1.3.86 to 28.2.87. In view of the aforesaid sanction order there is no doubt that 75% of the rates prescribed in the Finance Department O.M.No. dated 17.1.75 has been given to the Audit and Accounts staff posted at Upper Kolab Project, Jeypore."

4. it is clear that not only the employees of the Dandakaranya Project but also those of Central Coffee Board, Central Excise, Posts and Telegraph Departments stationed at Jeypore get the facility of Project Allowance.

5. In the light of the instruction dated 8th June, 1978 issued by the Ministry of Information and Broadcasting (Annexure-18) it is hereby directed that the applicants in O.A.No.131/88 should get the Project Allowance at the same rate and on the same conditions, on which the other Central Government employees posted at Jeypore are getting and if they have been paid more on account of Project Allowance than the other Central Government employees, the excess amount should be recovered from them by suitable monthly instalments. Accordingly the judgment in O.A.No.131 of 1988 stands modified to this extent. "

Two submissions made in the counter are extracted below :

"5. It is not out of place to mention here that the order of recovery of the Project Allowances vide letter dt.5.6.87 having been stayed by this Hon'ble Tribunal in connection with the aforesaid two cases no recovery was made from the present applicants and as such payment of project allowances does not arise at all.

x x x x x

9.A. That the payment of project allowance to all similarly placed persons are under active consideration of the Ministry. In case a decision is taken in favour of the applicants, it will have all India ramifications and arrears have to be paid to a large number of employees. Due to paucity of funds it may not be possible to disburse the same immediately, therefore the modalities of payment of arrear etc. have to be decided by the Ministry and in this view of the matter the Hon'ble Tribunal may allow the respondents a reasonable time."

5. There is no question of limitation involved with the above concessions, particularly when the representations have not been disposed of and the the matter is under consideration. The above is virtually an acceptance of the claim of the applicants who are similarly situated persons as the applicants in R.A. No.6/89. The respondents have not distinguished the applicants in this case in any manner. Certain conditions are to be

fulfilled for grant of Project Allowance by the Government. These are fulfilled by the applicants in the same manner as those of R.A.No.6/89. There is no justification to deprive these applicants to get the same benefit. The respondents are directed not only to desist from recovering the Project Allowance already paid unless the amount paid exceeds the prescribed parameters applicable to the other Central Government employees posted at Jeypore but also to pay the arrears/^{of}admissible amount to each of the applicants during the period of their stay for which the said Project Allowance was legally payable within a period of four months from the date of receipt of a copy of this order.

In the facts and circumstances of the case, interest is not allowed on the arrears. The O.A. is accordingly disposed of.

Manasinh Sah
(N. SAHU)
MEMBER (ADMINISTRATIVE).

DJ/