

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O. A. No.
T. A. No.

553/1992

109

DATE OF DECISION 30.4.1992

Sreekala Panicker.M. and four others. Applicant (s)

Mr.M.A.Shafik Advocate for the Applicant (s)

Union of India represented by the
Secretary, Ministry of Communications, Respondent (s)
Government of India, New Delhi and two others.

Mr.N.Sugunapalan, SCGSC Advocate for the Respondent (s)

CORAM :

The Hon'ble Mr. S.P.MUKERJI, VICE CHAIRMAN

The Hon'ble Mr. N.DHARMADAN, JUDICIAL MEMBER

1. Whether Reporters of local papers may be allowed to see the Judgement? MP Yes
2. To be referred to the Reporter or not? MP
3. Whether their Lordships wish to see the fair copy of the Judgement? MP
4. To be circulated to all Benches of the Tribunal? MP

JUDGEMENT

(Hon'ble Shri S.P.Mukerji, Vice Chairman)

In this application dated 13th April, 1992 the five applicants who have been working as Telephone Operator/Telecom Office Assistant under the Telecom District Manager, Alleppey have prayed that they should be declared to be entitled to productivity linked bonus during the period of their service as Reserve Trained Pool Telephone Operators/Assistants and paid the arrears thereof. They have referred to the benefit of bonus being ^{allowed} given to R.T.P employees by this Tribunal in the judgments in O.A. 171/89 and O.A. 612/89 and have stated that their representations to the respondents seeking benefits of those judgments have been repelled.

2. We have heard the arguments of the learned counsel for both the parties and gone through the documents carefully. The learned counsel for the respondents did not wish to file any counter affidavit, but argued that he would have no objection if the case is disposed of on the basis of the judgment of the Tribunal in similar cases. An identical case of grant of productivity linked bonus to RTP Postal Assistants

fell for decision by this Bench of the Tribunal in OA 612/89. In that case the applicants had been working in RTP capacity intermittently as Postal Assistants since 1983. As regards their entitlement to productivity linked bonus, we held as follows:-

" In accordance with the scheme as was promulgated in 1980 (Exbt.R2(C) and as reiterated in DG(Posts) letter of 5th October 1988(Annexure-A) productivity linked bonus is admissible to both the Extra-Departmental employees and casual labourers of the department. The quantum of bonus admissible under the scheme as indicated in Annexure A is determined as follows

" The quantum of bonus as admissible under these orders will be calculated on the average emoluments during the year 1987-88. The term emoluments will comprise pay (including personal pay, special pay and deputation pay) and dearness allowance but will not include other allowances such as HRA, CCA, Remote Locality Allowance, Children Education Allowance etc. For the purpose of these orders the average emoluments will be the total emoluments for the accounting year 1987-88(1.3.87 to 29.2.88) divided by 12. The bonus will thereafter be calculated as under.

Average emoluments X 35
30.4

The casual labourers are eligible for the aforesaid bonus in terms of para 6 of Annexure A as quoted below:

" Casual labour who worked at least for 240 days for each year for three years or more as on 31.3.88 are eligible for adhoc payment. The amount will be paid on a notional monthly wage of Rs.300/-, irrespective of actual monthly wage. The amount of adhoc payment will be calculated at the rate of 94.6 paise per day for the days for which the service of the causal employee had been utilised during the accounting year 1987-88".

Since the RTPs cannot be held to be having a status inferior to that of a casual labourer as they had been selected after a tough open market competition and trained by the department, we feel that the RTPs should also be entitled to the productivity linked bonus at least in parity with the casual workers of P&T Department. The RTPs when employed contribute to the production of the department as much as any casual or regular worker. The Jabalpur Bench of this Tribunal, as indicated by the applicant, in T.A. 82/86 had held that RTPs are performing the same duties as the other Postal Assistants. The only difference is that the service rendered by them is intermittent and not continuous and is subject to the availability of work. Any discrimination against the RTPs according to us will be discriminatory and violative of Articles 14 and 16 of the Constitution of India."

Again a similar issue was decided by this Bench of the Tribunal (to which one of us was a party) in its judgment dated 18.6.90 in O.A.179/89. The Tribunal relying upon our judgment in O.A. 612/89 held as follows:-

" The question of payment of productivity linked bonus to the Reserve Trained Pool Postal Assistants was considered by this Bench of the Tribunal to which one of us (Shri S.P.Mukerji) was a party in O.A. 612/89. In the judgment dated 26.4.90 in that case the two applicants therein as R.T.P. were declared to be entitled to the benefit of productivity linked bonus, if like casual workers they have put in 240 days of service each year for three years or more as on 31st March of each year after their recruitment. The ratio in that judgment was that no distinction can be made between an R.T.P worker and the casual labourer. If casual labourers have been given ex-gratia payment on the lines of productivity linked bonus there was no reason why the R.T.P. candidates also should not get the same after they fulfil the same conditions of intermittent employment etc. which are applicable to casual labourers also. The argument of the respondents in the case before us that R.T.P. candidates being not regular employees and not holding any post are not entitled to productivity linked bonus cannot be accepted because casual labourers also are not regular employees nor do they hold any post in the department. It appears that R.T.P. candidates were excluded from the Bonus scheme because as indicated by the respondents themselves, when the original scheme of productivity linked bonus was framed the category of R.T.P. was not in existence. For that account they cannot be, to our mind, discriminated against."

3. In the facts and circumstances we allow this application, declaring that the applicants while they were in the R.T.P. category, are entitled to the benefits of productivity linked bonus, if like the casual workers they had put in 240 days of service each year for three years or more as on 31st March of each bonus year after their recruitment as R.T.P. candidates. The amount of productivity linked bonus would be based on their average monthly emoluments determined by dividing the total emoluments for each accounting year of eligibility, by 12 and subject to other conditions of the scheme prescribed from time to time. There will be no order as to costs.

(N.Dharmadan)
Judicial Member

Dharmadan
30.4.92

S.P.M.
(S.P.Mukerji)
Vice Chairman

30.4.92