

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM

O. A. No. 612/89
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DATE OF DECISION 26.4.90

Kuttisankaran and another Applicant (s)

M/s K. Ramakumar & Advocate for the Applicant (s)
VR Ramachandran Nair
versus

UOI rep. by Director General Respondent (s)
of Posts, New Delhi and others

Mr. TPM Ibrahim Khan, ACGSC Advocate for the Respondent (s)

CORAM:

The Hon'ble Mr. S.P. Mukerji, Vice Chairman

The Hon'ble Mr. A.V. Haridasan, Judicial Member.

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

JUDGEMENT

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

The two applicants are Reserve Trained Pool (RTP) Postal Assistants in the Tirur Postal Division. They have been working in RTP capacity since 1983 but have not yet been appointed in a regular capacity because of lack of vacancies. They had been recruited by proper selection for future vacancies and given training. They are appointed intermittently against the leave and short-term vacancies or for seasonal work as and when need arises. In this application they have raised their grievance that even though regular and even casual employees in the Postal Department are being allowed the productivity linked bonus, which has been

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promulgated since 1980, they have not been granted any bonus even though they have been discharging all the duties and responsibilities of Postal Assistant as and when they had been engaged. Their representations for getting bonus from the year 1985-86 have borne no fruit. They have challenged the denial of bonus to them as violative of Articles 14, 16 and 21 of the Constitution of India and discriminatory.

2. The respondents have stated that since the employees of the Postal Department do not come within the purview of Bonus Act, the Government after detailed discussions with the staff, promulgated the productivity linked bonus in the P&T Department. According to the scheme based on an agreement between the department and the staff (Exbt. R.2-A) only regular employees and industrial employees and the work-charged establishment in the P&T department are covered by the scheme. According to the respondents, since the RTPs are not regular employees and their production is not computed in the staff productivity index, they are not covered by the scheme.

3. We have heard the arguments of the learned counsel for both the parties and have gone through the documents carefully. // In accordance with the scheme as was promulgated in 1980 (Exbt.R.2(c)) and as reiterated in D.G (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 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 31.3.1988 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 casual 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 atleast in parity with the casual workers of P&T Department. The when employed RTPs ⁶ 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.

4. We are, however, not impressed by the adhoc monthly wage determined for the casual worker at Rs. 300/- at Annexure-A dated 5th October, 1988 or Rs. 150/- indicated in the order dated 17th March, 1980 (Annexure R2(B)) . Considering the special status of the RTPs, we feel that^{as in case of casual workers} so long as their continuity of employment for at least 240 days for three years is ensured, their monthly wage for the purpose of productivity linked bonus^{for any year} should be determined by dividing the total wages earned by them during the year by 12."

5. In the facts and circumstances, we allow this application to the extent of declaring that the applicants as RTP are entitled to the benefit of productivity linked bonus if like the casual workers they put in 240 days of service each year for three years or more as on 31st of March of each year after their recruitment. 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. ✓


(A.V. HARIDASAN)
JUDICIAL MEMBER


(S.P. MUKERJI)
VICE CHAIRMAN
26/4/90

26.04.90

Ksn.