

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

D. A. No.
~~XXXXXX~~

109 of 1992

DATE OF DECISION 16-4-1992

V.G.Kesavan and others Applicant (s)

M/s K.Ramakumar & Advocate for the Applicant (s)
VRRamachandran Nair
Versus

Union of India rep.by its Respondent (s)
Secretary, Ministry of Telecommunications
and Posts, New Delhi and others

Mrs. K.B.Subhagamani, ACGSC Advocate for the Respondent (s)

CORAM :

The Hon'ble Mr. S.P.Mukerji - Vice Chairman
and

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

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

JUDGEMENT

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

In this application dated 25.12.1991 filed under Section 19 of the Administrative Tribunals Act, the four applicants who have been working as Sorting Assistants under the Post Master General, Northern Region, Calicut have challenged the denial of payment of Productivity Linked Bonus to them while they were working as RTP Postal Assistants as violative of Articles 14, 16 and 21 of the Constitution of India and have prayed that the respondents be directed to pay them the bonus from the year 1985-86.

2. According to the applicants they have been working as Sorting Assistants from 1983 onwards. Before that they were working as Reserve Trained Pool Postal Assistants after successfully appearing in a selection examination and undergoing

training. As RTP Postal Assistants they have been discharging the same duties as regular Postal Assistants. They have referred to the D.G. P&T's communication dated 5.10.88 at Annexure-B allowing Productivity Linked Bonus to the regular employees of the Postal Department and ex-gratia payment of bonus to the Extra Departmental Agents and casual labourers of the Department subject to certain conditions prescribed in the Circular. Their grievance is that the RTP Postal Assistants have been denied Productivity Linked Bonus from 1985-86 onwards. They have referred to the decision of this Tribunal in O.A.612/89 pronounced by this very Bench on 26.4.90 at Annexure.A.I in support of their claim. They have argued that when casual labourers are also being given bonus, to deny the same to the RTP Postal Assistants is discriminatory.

3. In spite of a number of adjournments the respondents did not file any counter affidavit but the learned counsel for the respondents argued the case along with the learned counsel for the applicants. This Tribunal as in O.A.612/89 and similar cases of RTP candidates in the Postal Department and Telecommunication Department have been taking the consistent view that the RTP employees have been discharging the same duties as the regular employees prior to their absorption in the regular post. They have been recruited through a competitive examination and trained against the anticipated vacancies for ultimate absorption. ^{Thus} they are on a much superior footing than the casual employees who are not appointed against the regular posts and

the selection of whom are made not on the same lines as of regular employees. Accordingly this Bench of the Tribunal took the view that if not the regular Productivity Linked Bonus, at least the ex-gratia bonus which was made available to the casual labourers should be made available to the RTP employees also. The following extracts from the aforesaid judgment dated 26.4.90 in O.A.612/89 will be relevant:

"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 "

"The casual labourers are ^{30.4} eligible for the aforesaid bonus in terms of para 6 of Annexure-A as quoted below:

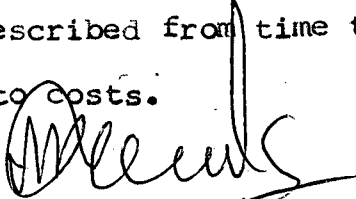
"Casual labour who worked at least for 240 days for each year of three years or more as on 31.3. 1988 are eligible for adhoc payment. The amount will be paid on a notional monthly wage of Rs.300/- irrespective of actual monthly wage. The amount of adhoc payment will be calculated at the rate of 94.6 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 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.32/86 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.

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 R.2(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."

4. In conformity with the aforesaid observations 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 ^{bonus} 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

16.4.92