

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM

O. A. No.
XXX No.

171/89

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XXX

DATE OF DECISION 18.06.1990

All India RMS & MMS Applicant (s)
Employees Union Cl.III, Kerala Circle and others

M.R.Rajendran Nair Advocate for the Applicant (s)

Versus

UOI rep. by Secy., Ministry of Communications and others Respondent (s)

P.Santhoshkumar, ACGSC 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? **Yes**
2. To be referred to the Reporter or not? **No**
3. Whether their Lordships wish to see the fair copy of the Judgement? **No**
4. To be circulated to all Benches of the Tribunal? **No**

JUDGEMENT

(**Shri S.P.Mukerji, Vice Chairman**)

In this application dated 8th March, 1989 filed under Section 19 of the Administrative Tribunals Act, the Kerala Circle Branch of All India RMS and MMS Union Class III and five other applicants who are in the Reserve Trained Pool of Sorting Assistants of the RMS have prayed that the Reserve Trained Pool employees in the cadre of Sorting Assistants of the RMS should be declared to be entitled to get the Productivity Linked Bonus at the same rates applicable to regular employees of the Postal Department. They have also prayed that the respondents be directed to disburse the Productivity Linked Bonus to applicants 2 to 6 and similarly situated persons including arrears.

Their assertion is that after discussion in the Departmental Council with the representatives of the employees an agreement was reached with the approval of the Government that all regular employees in the P&T Department and all Industrial employees in the Workcharged Establishment in P&T drawing a maximum of Rs. 1600/- as monthly wage will be allowed Productivity Linked Bonus calculated on the basis of wages of certain particular days. By the order of D.G., Department of Posts dated 5.10.88 the staff of the Department of Posts were allowed Productivity Linked Bonus equal to 35 days emoluments. It was also specified that Extra Departmental employees and Casual Labourers of the department will also be entitled to similar Bonus as ex-gratia payment. The grievance of the applicants is that Reserve Trained Pool Sorting Assistants who are selected after ^a tough competitive examination against future vacancies and engaged intermittently to do the work of Postal Assistants till regular vacancies accrue, are excluded from the benefit of Bonus scheme. According to them while they are working as Postal Assistants intermittently as R.T.P. they are putting in qualitatively and quantitatively the same work as the Postal Assistants ^{and, thus} contribute ^b to the output of the Department. By denying them the benefit of Bonus, they have been subjected to hostile discrimination in violation of Articles 14 and 16 of the Constitution. They have referred to the decision of the Madras Bench of the Tribunal in which the R.T.P. candidates were made

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entitled to the same pay and allowances as are applicable to the regular employees for the period they worked as Sorting Assistants.

2. In the counter affidavit the respondents have indicated that the first applicant i.e., All India RMS and MMS Union Class III has no locus standi to represent the Reserve Trained Pool candidates of Kerala Circle. The members of the RTP are not on the regular rolls of the department. They have conceded that casual labourers and E.D. Agents were made eligible for ex-gratia payment as an act of goodwill but RTP candidates are not covered under this scheme. At the time when the original scheme of Productivity Linked Bonus was made the category of RTP was not in existence. They have argued that the Bonus scheme was to provide substantial motivation to the employees for achieving higher productivity and improve quality of service. This intention according to them cannot cover RTP candidates who are not regular employees of the department. They have referred to the order of the Hon'ble Supreme Court by which the RTPs irrespective of the number of years service rendered are to be given minimum of the pay scale of the post. Finally they have argued that the very fact that the RTP candidates hold no post in any capacity neither permanent nor temporary, dis-entitles them for payment of Bonus.

3. We have heard the arguments of the learned counsel for both the parties and gone through the documents carefully. 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. ¹¹

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4. So far as the first applicant is concerned, since according to the respondents the R.T.P. candidates are not members of the All India RMS and MMS Union Class III nor is there any documentary evidence before us to show that the ~~Union~~ ^{has} been authorised by all the R.T.P. candidates in Kerala Circle to represent their interest before us, we cannot accept them on behalf of such R.T.P. candidates in Kerala Circle.

5. Based on our previous decision in O.A.612/89 we allow this application in so far as the applicants 2 to 6 are concerned and declare them as R.T.P. to be 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 March of each 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 ~~xx/~~ ^{subject} to other conditions of the scheme prescribed from time to time. There will be no order as to costs.


(N. Dharmadan) 18.6.90
Judicial Member


(S.P. Mukerji) 18.6.90
Vice Chairman

18.6.90

Ksn.