IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O. A. No. 193/91
~~XXXXXX~~ ~~199~~

DATE OF DECISION 30.9.91

Josy Peter and 15 others — Applicant (s)

M/s. M.Paul Varghese — Advocate for the Applicant (s)

Versus

Union of India, represented by
~~Secretary to Government,~~ Ministry of Communications, Dept. of Posts, New Delhi and another — Respondent (s)

Mr.George Joseph, 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? 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

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

In this application dated 28.1.1991 filed by sixteen Postal Assistants working under the Superintendent of Post Offices, Alwaye Postal Division have prayed that they should be declared to be entitled to be paid productivity linked bonus during the period they rendered service as Reserve Trained Pool hands at the same rates as applicable to regular employees. In support of their claim they have relied upon the judgments of this Tribunal in O.A 171/89 and 612/89 in which like casual employees the RTP hands were held to be entitled to productivity linked bonus at the same terms and conditions as are applicable to casual employees. Being similarly situated as the applicants in the aforesaid cases, when the applicants before us apporached the respondents for similar

benefits, the respondents denied the same stating that since they were not parties to the aforesaid applications they are not entitled to the same.

2. We have heard the arguments of the learned counsd for both the parties and gone through the documents carefully. This Tribunal has been disposing of a number of similar applications holding that RTP hands should be given productivity linked bonus in the same manner as is allowed to casual employees. The following extracts from the aforesaid judgment in O.A 171/89 will be relevant:-

> " 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 26.4.1990 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 by the R.T.P. candidates also should not get the same after they fulfill the same conditions of intermittent employment etc.which are applicable to casual labourers also. The argument of the respondents in this 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 re 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. It is unfortunate that in spite of a number of judgments pronounced by this Tribunal regarding admissibility of productivity linked bonus to R.T.P hands in the Postal Department, that department is driving their employees

to the Tribunal when it would have been more graceful for that department to extend the benefits to similarly circumstanced hands. None of the judgments of this Tribunal on this issue has been stayed or set aside by the Supreme Court. We are bound by those judgments.

4. In the circumstances we allow this application to the extent of declaring that the applicants are entitled to the benefit of productivity linked bonus during their service as R.T.P hands 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 hands. 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.

30/9/91

(A.V.Haridasan)
Judicial Member

(S.P. Mukerji)
Vice Chairman

n.j.j