

(5)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI
NEW BOMBAY BENCH

O.A. No.
~~XXXXXX~~

772/87

198

DATE OF DECISION 27.6.1988

Shri V.B.Dixit

Petitioner

Advocate for the Petitioner(s)

Versus

Union of India & Ors.

Respondent

Shri S.R.Atre

Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. P.Srinivasan, Member(A)

The Hon'ble Mr. M.B.Mujumdar, Member(J).

1. Whether Reporters of local papers may be allowed to see the Judgement? *Yes*
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of the Judgement? *No*
4. Whether it needs to be circulated to other Benches of the Tribunal?

(6)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW BOMBAY BENCH, NEW BOMBAY - 400 614.

O.A. No. 772/87

Shri V.B. Dixit & 12 others
C/o. Shri V K Pradhan
23 Guruprasad 1st floor
Dombivili (East)
Maharashtra

Applicants

V/s.

1. Union of India
through the Secretary
Ministry of Communications
New Delhi
2. The General Manager
Telecom Factory
Sion Trombay Road
Deonar
Bombay 400008
3. The Asstt. Director General
P&T Department (TF Section)
Sanchar Bhavan
Parliament Street
20 Ashoka Road
New Delhi 110001
4. The Chairman
P&T Board (TF Section)
Sanchar Bhavan
Parliament Street
20 Ashoka Road
New Delhi 110001

Respondents

Coram : Hon'ble Member(A) P. Srinivasan
Hon'ble Member(J) M B Mujumdar

ORAL JUDGMENT
(PER : P. Srinivasan, Member(A))

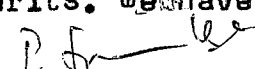
Date : 27.6.1988

This application was listed for to-day before the Deputy Registrar for reply to be filed by the respondents. Shri S.R. Atre (for Shri P.M. Pradhan), learned Counsel for the respondents submitted before the Deputy Registrar that the reply of the respondents is not yet

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ready and it would take another four weeks for them to file their reply. There upon the Deputy Registrar has put ^{up} this application before us for further orders.

2. There are altogether 13 applicants in this application of whom applicant No. 1 Shri V.S. Dixit; Applicant No. 2 Shri L B Chanagiri and Applicant No. 13 Shri V.A. Naik are present in ~~the~~ court. This application was filed on 16.11.1987 and admitted on 8.2.88. There upon notices were issued to the respondents to file their reply within a month. On 18.3.88 the application was put up before the Registrar for reply of the respondents, but on that date learned counsel for the respondents sought for further time to file their reply. But till to-day the reply has not been filed. Shri Atre prayed for further time of four weeks to file the reply of the respondents. We see no point in allowing the time asked for particularly because the facts of this case and the issues raised therein are admittedly similar to those in OA 98/86 which was decided by this Tribunal on 1.5.1987 in favour of the applicants therein. Even earlier Writ Petitions filed by persons ~~similarly~~ ^y similarly circumstanced like the applicant were decided in their favour by the High Court of Bombay (Writ Petitions Nos. 521 and 522 of 1983) decided on 3.7.1985). As we have said ^{earlier} ~~there is~~ ^{no} ~~dispute~~ ^M that the facts are similar between those cases and the present case. In view of this we reject the request of Shri Atre seeking time to file reply and proceed to dispose of the matter on merits. We have heard Shri Atre

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on the matter.

3. The applicants are working as Office Assistants in the office of Telecom Factory in Bombay. They entered service on various dates in the years 1943 to 1953 as Shop Clerk / Sircars. In 1957 the P&T Department decided to convert the posts of Shop Clerks in the industrial establishments into a regular establishment of the P&T Department. Options were given to persons then working as Shop Clerks whether they would like to be appointed as Clerks on the regular establishment or to retain ^{or their} status as employees of industrial establishment. The applicants exercised their option to be borne on the regular establishment. As a result they were brought on the regular establishment of the P&T Department with retrospective effect. There upon the applicants and other similarly situated requested that they should be regularised as Time Clerks in the P&T department with effect from the date they originally entered ^M the service. Initially there was some problem because some of the Time Clerks were matriculates and others were non-matriculates and non-matriculates had to pass some test before they could be regularised. But in 1983 it was decided that all Clerks whether matriculates or non-matriculates should be brought on regular establishment with effect from 1.11.1970. Some persons who were working as Time Clerks went to the High Court of Bombay in two Writ Petitions (Nos. 521 and 522 of 1983) claiming they should have been regularised from

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the date of their initial appointment. These Writ Petitions were ^{decided} ~~discharged~~ on 3.7.1985 in their favour, but the financial benefit ^{arising herefrom} ~~arisen from that~~ was given to them with effect from 1982. The High Court further directed that the applicants should also be given the benefit of promotion and terminal benefits on the basis of their regularisation from the date of their initial appointment. The respondents gave relief arising out of this judgment only to those petitioners who went to the High Court. Another set of employees with a similar grievance approached this Tribunal for the same relief in O.A. No. 98/86 (Balkrishna Arjun Padwal & Ors Vs. General Manager, Telecom Factory, and Ors.) which was decided on 1.5.1987, again in their favour. This Tribunal directed that the applicants there in should be given the benefit of conversion to regular establishment with effect from the dates of their initial recruitment, with financial benefit from 18.6.1982 only, and not earlier. This Tribunal also directed that the seniority of the applicants there in should be determined on the basis of their regularisation from the date of their initial appointment and given deemed promotion to higher posts on the basis of such seniority, again with financial benefit from 18.6.1982 only. It was also directed that the applicants be given consequent retirement benefits also.

4. The grievance of the applicants before us is that while relief as ordered by the High Court and by

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this Tribunal were given to those of their colleagues who had approached the High Court and this Tribunal, they had been denied the same benefit. They should have been extended the same benefit as a result of the decision of the High Court on 3.7.85 or at least on the decision of this Tribunal rendered on 1.5.1987. On the question of limitation, the applicants contend that they had been discriminated against when effect was given to the judgment of the High Court, rendered on 3.7.85 and again ^{M to} the decision of this Tribunal, rendered on 1.5.87 and with reference to the dates on which the decision of this Tribunal was implemented, this application is well in time. Even if it is not, that delay may be condoned under section 21.

5. Shri S.R. Atre on behalf of the respondents ^{of the applicants M} vehemently opposed the contention ^L and submitted that this application should be dismissed as badly delayed.

6. We have considered the rival contentions carefully. On the question of limitation, we ^{notice M} observe that when Balkrishna Arjun Padwal's case was heard and disposed of by this Tribunal on 1.5.1987, it was observed that the rights of the applicants therein became crystallised on 3.7.1985 when the Bombay High Court decided Writ Petition Nos. 521 and 522 of 1983, and that therefore the cause of action of the applicant arose on that date. We respectfully agree with this view and applying it ^{M to} with the present case, the cause of action ^{M to} of ^{M us can} applicants before him also be said to have

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arisen on 3.7.1985. Even so there is some delay in that the applications have been filed after the expiry of one year from that date. As we have already noticed other persons like the applicants approached this Tribunal in Padwal's case. The applicants before us submitted that they were hoping that the decision rendered in Padwal's case would benefit them and so they did not present an application. In any case since the justice ^{of} ~~on~~ the applicants' claim has been upheld by the High Court and by this Tribunal in similar cases, we feel that this is a fit case where delay in filing of application if any should be condoned. We ^{are} ~~are~~, therefore, ^{condone} ~~condoning~~ the delay. For the rest, since the facts relating to the applicants before us are the same as those in Padwal's case decided by this Tribunal ^{and} ~~in~~ in Writ Petition Nos. 521 and 522 of 1983 decided by the High Court, applicants are entitled to the same relief that was given in Padwal's case. We, therefore, direct :

ORDER

- 1) The respondents to regularise the applicants in posts of Time Clerks from the dates of their initial recruitment. They will however be entitled to financial benefits by way of pay and allowances arising there from only from 18.6.1982 and not from an earlier date.

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- 2) We direct respondents to determine the seniority of the applicants on the above basis and to ^{consider} give ^{M for} them promotion to higher posts on a notional basis on the basis of such seniority. Here again any financial benefit arising out of such deemed promotions will be available to the applicants only from 18.6.1982 and not from an earlier date.
- 3) To extend to the applicants all retirement benefits based on the revised pay and allowances due to them as per directions 1 and 2 above from 18.6.1982.
- 4) The above directions should be ^{complied} completed with all such expedition as ^{M is} possible but not later than six months from to-day. It is essential that it is implemented early as we understand ^{already} that some of the applicants have retired.

The application is disposed of on the above terms. Parties to bear their own costs.

(M B Mujumdar)
Member (J)

(P Srinivasan)
Member (A)