

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

O.A. NO: 660/90

199

~~Ex-Amt~~

DATE OF DECISION 30.12.1991

Naval Armament Inspection Staff Petitioner
Association, & 2 others.

Mr. K.P.V.Menon Advocate for the Petitioners

Versus

Union of India & Ors. Respondent

Mr. V.S.Masurkar Advocate for the Respondent(s)

CORAM:

The Hon'ble Mr. Justice, U.C.Srivastava, V/C

The Hon'ble Mr. M.Y.Priolkar, M(A)

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

mbm*

(U.C. Srivastava)
V/C

(6)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH, BOMBAY

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Original Application No.660/90

Naval Armament Inspection Staff
Association, 3/13, MIG, A.Vinoba
Bhave Nagar, Near Pipe Road,
Kurla West, Bombay 400 070 and
2 others.

... Applicants

V/s

1. Union of India, through the
Secretary, Ministry of Defence,
South Block, Parliament House,
New Delhi 110 011.
2. The Chief of the Naval Staff,
Naval Headquarters, South Block-5,
New Delhi 110 011.
3. The Flag Officer Commanding-in-Chief,
Headquarters, Western Naval Command,
Shahid Bhagat Singh Road,
Bombay 400 001.
4. The Director of Naval Armament
Inspection, Directorate of Naval
Armament Inspection, Naval HQ,
West Block No.5, Wing No.1, R.K.Puram,
New Delhi 110 066.
5. The Chief Inspector of Naval
Armament, Naval Armament Inspe-
ctorate, Naval Dockyard
(Gun Gate), Bombay 400 023.

... Respondents

CORAM : Hon'ble Vice-Chairman, Shri Justice U.C.Srivastava
Hon'ble Member (A), Shri M.Y.Priolkar

Appearances:

Mr.K.F.V.Menon, Advocate
for the applicants and
Mr. V.S.Masurkar, Counsel
for the respondents.

ORAL JUDGMENT:

Dated : 30.12.1991

(Per. U.C.Srivastava, Vice-Chairman)

Naval Armament Inspection Staff Association
along with few individuals have filed this application
praying that the benefit of productivity linked bonus
which has been extended by the Government of India to
various other units of the Naval Armament and to others

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may also be extended to them as the same has been wrongly denied by the respondents who thereby are acting in a discriminatory manner. They have also prayed that the members of the applicant No.1 employed in various establishments may also be paid arrears of the same. The Indian Navy has got various units. The productivity linked bonus for which a scheme was laid down by the Ministry of Defence was extended to eight units of the Naval Armament in the year 1989. The applicants grievance is that although the Armament Inspection has its Head Office at New Delhi and has its Inspectorates spread over through out the country in various places and the employees working in these Inspectorates have a common combined seniority list and could be transferred from one Inspectorate to another and the promotions can be made on an all India basis yet one unit at Alwaye in Kerala is getting the productivity linked bonus ~~xxx~~ but they have been deprived of the same and they are getting it by virtue of the decision of the Central Administrative Tribunal, Madras Bench, before it certain admissions were made by the Union of India against which SLP was also dismissed.

2. The Union of India has resisted the claim of the applicants stating that before the Madras Bench a wrong concession was made and necessary facts were not pointed out. It has been stated that the conditions were laid down by the Ministry of Defence in the year 1980 for productivity linked bonus with certain schemes in this behalf was framed and the eligibility for grant of productivity linked bonus was as follows:-

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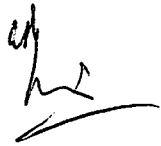
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- (a) The Units/Establishments should be engaged in production, manufacture and supply of tangible material goods.
- (b) The employees of the units should be predominantly civilians.
- (c) The bulk of the employees should be industrial in character.

The plea and contention on behalf of the applicants are that the unit of the applicants functions as quality control department of the real production unit and without the quality control there cannot be any manufacture or production and the employees essentially are industrial in character though most of them are civilians. On behalf of the respondents it has been contended that the employees are not industrial in character and this unit does not produce or manufacture any thing as such they cannot claim benefit of the productivity linked bonus. There appears to be no denial of the fact that so far as this unit is concerned this unit is also governed by the Factories Act. In the Factories Act the definition of manufacturing process is very wide. Section 2(k) defines it as "manufacturing process means any process for making, altering, repairing, ornamenting, finishing, packing, oiling, washing, cleaning, breaking up, demolishing or otherwise treating or adapting any article or substance with a view to its use, sale, transport, delivery or disposal." The very wide definition of manufacturing process apparently will include the quality control as without it the finished goods cannot come out. The unit may not be producing any thing as such but it is a link in the manufacturing process. As it is a link in the manufacturing process, obviously those who are performing duties could be covered under the wide definition of industry as defined in the Industrial Disputes Act. But

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as all the necessary facts in this behalf are not on the record and the Government of India is yet to take a decision, we direct the respondents to consider the case of the applicants and in case the applicants are an essential link of the production or manufacturing process, the benefit of the productivity linked bonus may also be extended to them. A decision in this behalf shall be taken by the Union of India within a period of three months from the date of communication of this order. No order as to costs.



(M.Y. Priolkar)
Member(A)



(U.C. Srivastava)
Vice-Chairman

v/-

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BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH, BOMBAY.

Review Petition No.49/92
in
Original Application No.660/90.

1. Naval Armament Inspection Staff Association, Bombay a Trade Union registered under the Trade Unions Act, 1926 and recognised in the Western Naval Command, Bombay and affiliated to All India Defence Employees Federation, having its office at 3/13, M.I.G., A Vinoba Bhawe Nagar, Near Pipe Road, Kurla (West), Bombay - 400 070.

& 2 Others.

.. Applicants.

Vs.

1. Union of India, through Secretary, Ministry of Defence, South Block, Parliament House, NEW DELHI - 110 011.

& 4 Others.

.. Respondents.

Coram : Hon'ble Shri Justice U.C. Srivastava, Vice Chairman
Hon'ble Shri M.Y. Priolkar, Member (A).

TRIBUNAL'S ORDER :

Date: 6.4.92

The Review Petition under the signatures of someone on behalf of the Respondent Nos. 1 and 2 and signed by Respondent No.3 to the original application and this Review Application No.49/92 has been preferred against our judgment and order dtd. 30.12.1991.

2. In the review application not only the Respondents have sought the reargument and the case which has been decided by us in their own manner also used such language they should not have used. As a matter of fact we have taken a note of decision of the Central Administrative Tribunal, Madras Bench and have distinguished the same. We have taken into consideration the facts of the instant case before us and thereafter we have left it on the Central Government to take a decision in the matter of the applicants and fix the time for the same and has yet

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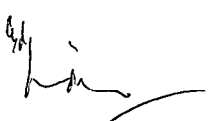
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O.A.660/90.

to take decision. We have ~~only~~ directed the respondents to consider the case of the applicant, if they are found in essential link of the production or manufacturing process, the benefit of the productivity linked bonus may also be extended to them.

3. What has been stated in the Review Application could be raised only by the authority who is to decide the matter i.e. the Central Government to whom the direction has been issued.

4. We do not find any error apparent on the face of the record ~~of~~ and no ground for recalling our judgment as a matter of fact there is no ground for review and the same is misconceived and it is accordingly dismissed.


(M.Y. PRIOLKAR)
MEMBER (A).


(U.C. SRIVASTAVA)
VICE CHAIRMAN.

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