

## IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

~~NEW~~ BOMBAY BENCHCIRCUIT SITTING AT PANJI

O.A. No.

72

1981

~~F.A. No.~~DATE OF DECISION 8.01.1992

All India Telecom Petitioner  
Employees Union Class III and others  
Shri V.B. Nadkarni & Anr.  
vs A.C. Havelkar

Advocate for the Petitioner(s)

Versus

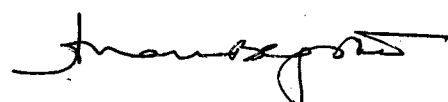
Govt. of India & others Respondent

Advocate for the Respondent(s)

## CORAM

The Hon'ble Mr. Justice G. SrinivasanThe Hon'ble Mr. A.B. Gorthi, Member 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? ☒



(A.B. GORTHY)

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CENTRAL ADMINISTRATIVE TRIBUNAL, BOMBAY BENCH,

CIRCUIT BENCH AT PANJI.

...

Original Application No. 72 of 1991

All India Telecom Employees

Union Class-III and another ... .. Applicants.

Versus

Government of India  
and others ... ..

Respondents.

Date: 8.1.92.

Hon. Mr. Justice U.C. Srivastava, V.C.  
Hon'ble Mr. A.B. Gorthi, Member (A)

( By Hon'ble Mr. A.B. Gorthi, Member (A) )

All India Telecom Employees Union representing the Class-III (Group-C) employees of the department of Telecom (P & T) posted in the state of Goa and Sri V.K. Sambari one such employee filed this application for a writ in the nature of mandamus commanding the respondents to pay Group-C and Group-D employees of the department of Telecom posted at Goa, House Rent Allowance at the same rate as admissible to Class-B 2 cities w.e.f. 1.6.1989.

2. Government of India vide O.M. No. 11013/2/86-EII (8) dated 23.9.1986 specified the amount of House Rent Allowance (H.R.A. for short) admissible to its employees. The said allowance varies depending upon the classification of each city. Admittedly, H.R.A. as admissible to Class-C city is being paid to the employees stationed at Goa. The applicant's contention is that Goa merits classification as B-2 City keeping in view the importance of the city and the acute accommodation problems it presents to the Government employees. The applicants rely on the relevant observations made by the various pay commissions which

expressed the view that H.R.A. being compensatory in nature should be linked to the availability of accommodation in a city and it ought not to be based merely on its population. Moreover, Ministry of Defence have classified Goa as B-1 city for the purpose of rental ceiling for hiring accommodation for Military Officers. Similarly, Ministry of Transport have treated Goa as a Class-B 2 city for the purpose of H.R.A. to the Port and Dock Workers. The State Government too has classified Goa as B-2 city for the purpose of H.R.A. to the State Employees. There is, thus, no justification in denying similar benefits to the applicants, so they assert.

3. The respondents have contested the claim of the applicants by stating that as per extant policy, unless the population in Municipal area of a city exceeds 4 lakhs, it can-not be classified as a B-2 city. Where the population is between 50,000 and 4 lakhs, it merits 'C' class. In the State of Goa, except in Margao and Mormugoa, no other place qualified <sup>for</sup> ~~in~~ classification as 'C' Class City on the basis of population. However, the Government of India decided as an exception to grant H.R.A. throughout the State of Goa as applicable to Class-C city.

4. Mr. A.L. Navelkar, learned counsel for the applicant vehemently contended that it was improper to rely merely on the population of a town for its classification for the purpose of H.R.A. which should more appropriately be determined on certain other relevant factors such as Geographical, Historical and Industrial importance of the town, the cost <sup>of</sup> ~~leaving~~ <sup>leaving</sup> therein and the availability or scarcity of accommodation for being hired. Therefore, the manner in which the Government of India declared Goa as

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a Class-C city merely on the strength of its population is arbitrary and discriminatory too because another Ministry of the same Central Government, namely, Ministry of Transport has accorded it the status of B-2 city. Though for a different purpose, Ministry of Defence gave it even a higher classification of B-1 city. The State Government, which ought to know better, sanctioned H.R.A. as applicable to Class-B2 cities w.e.f. 1.6.1989. Thus, the decision of the Central Government in granting H.R.A. to the applicants is arbitrary, and discriminatory besides being unfair and unjust.

5. The arguments advanced by the learned counsel for the applicants are <sup>indeed</sup> ~~very~~ very attractive and compelling but as contended by the learned counsel for the respondents, classification of cities on the basis of comparative costliness and such other relevant factors is a complicated process which can be finalised only with the help of expert bodies constituted for the said purpose.

6. The scope of judicial scrutiny of administrative decisions has its limitations. The quantum of the allowance to be paid to the employees and the conditions governing the grant of such allowance are matters to be evaluated by the management and it is not for the Tribunal to determine such issues, which have wide application, by relying on averments made in the affidavits of parties whose approach to the problem <sup>is</sup> ~~is~~ bound to be subjective.

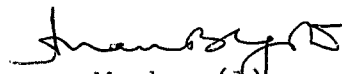
If the Government has for cogent reasons conferred we cannot interfere with the same unless it is a certain classification to a particular city shown to be patently erroneous, either in fact or in law.

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7. Notwithstanding the fact that the Ministry of Defence and Ministry of Surface Transport have given a different classification to Goa some time in the year 1988, the decision of the Central Government as <sup>contained</sup> ~~contended~~ & in the impugned order (Exhibit-A 1) dt. 14.10.1986 can-not be viewed as discriminatory. We do not consider it as arbitrary either, because the Government followed a certain yardstick and applied it uniformly. In fact, in the case of Goa, an exception favourable to the Central Government employees has been made by giving it 'C' classification although it was otherwise to fall within the category of 'unclassified' city.

8. In the result, we dismiss the application. There shall however, be no order as to costs.

  
Member (A)

  
Vice-Chairman.

Dated: 08.01.1992

(n.u.)