

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH.

ORIGINAL APPLICATION NO.: 1111 of 1993.

Dated this Wednesday, the 8th day of December, 1999.

S. Yogeshwaran & 32 Others, _____ Applicants.

In Person. _____ Advocate for the
applicant.

VERSUS

Union of India & Others, _____ Respondents.

Shri S. S. Karkera for _____ Advocate for
Shri P. M. Pradhan, _____ Respondent Nos. 1, 4 & 5.

Shri V.S. Masurkar, _____ Advocate for
Respondent Nos. 2 & 3.

CORAM : Hon'ble Shri Justice R. G. Vaidyanatha,
Vice-Chairman.

Hon'ble Shri B. N. Bahadur, Member (A).

- (i) To be referred to the Reporter or not ? yes
- (ii) Whether it needs to be circulated to other Benches no
of the Tribunal ?
- (iii) Library. yes


(R. G. VAIDYANATHA)
VICE-CHAIRMAN.

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1. S. Yogeshwaran.
2. S. J. Patil.
3. D. V. Nehate.
4. R. P. Gupta.
5. A. Y. Dodamani.
6. A. R. Fulekar.
7. A. A. Patil.
8. R. B. Eegude.
9. K. T. Muzumdar.
10. C. D. Prasad.
11. G. H. Pendarl.
12. J. S. Mishra.
13. Vinesh Bharati.
14. N. R. Chatuphale.
15. K. R. Jadhav.
16. R. S. Halliyawar.
17. Brajendra Singh.
18. P. H. Kardkal.
19. T. Benent.
20. Mrs. Sherly John.

21. Anil M. Gore.
22. V. R. Singh.
23. S. D. Kambhar.
24. R. N. Chopde.
25. P. J. Haldavnekar.
26. Benny John.
27. D. B. Nighat.
28. S. S. Yadav.
29. J. M. Kadam.
30. H. J. Yadav.
31. M. B. Kulkarni.
32. R. J. Panpate.
33. J. A. Yadav.

... Applicants.

(All the above applicants are working as Junior Telecom Officer in the office of Divisional Engineer T. D. Circle (Acceptance Testing MTNL) having his office on the 4th floor, Prabhadevi Telephone Exchange, V.S. Road, Bombay - 400 028.

VERSUS

1. Union of India through
The Secretary to the
Union of India, Department
of Telecommunications, 2nd
floor, Sanchar Bhavan,
Ashoka Road, New Delhi-110 001.
2. Chairman & Managing Director,
Mahanagar Telephone Nigam Ltd.,
Jeevan Bharti Tower-1,
12th Floor, Cannought Circus,
New Delhi - 110 001.
3. Chief General Manager,
Mahanagar Telephone Nigam Ltd.,
Telephone House, V.S. Road,
Bombay - 400 028:

4. Chief General Manager,
Technical Development Circle,
Sanchar Vikas Bhavan,
Residency Road, Jabalpur-1.
5. Divisional Engineer T.D. Circle,
(Acceptance Testing MTNL)
4th Floor, Prabhadevi Tel.Exchange,
V. S. Road, Bombay - 400 028.

... Respondents.

(By Advocate Shri S. S. Karkera for
Shri P.M. Pradhan for Respondent Nos.
1, 4 and 5.
By Advocate Shri V.S. Masurkar for
Respondent Nos. 2 and 3).

OPEN COURT ORDER

PER : Shri R. G. Vaidyanatha, Vice-Chairman.

This is an application filed by 33 applicants. They are not represented by any advocate. In spite of number of directions by the Tribunal, all the applicants have not appeared. Today, only seven applicants, namely - 1, 2, 3, 7, 8, 11 and 17 appeared and they addressed arguments in support of the application. We have heard the applicants who appeared in person and Shri V.S. Masurkar on behalf of Respondent No. 2 and 3 and Shri S. S. Karkera on behalf of Shri P.M. Pradhan for Respondent Nos. 1, 4 and 5.

2. The short point for consideration in this application is, whether the applicants are entitled to the benefit of adhoc payment of Rs. 100/- per month in terms of the order dated 23.10.1990 or not.

... 4

The applicant's case is that they were initially recruited by the Bombay Telecommunication, which is a part of the Department of Telecommunication. They have been given on deemed deputation to M.T.N.L. Then M.T.N.L. have deputed the applicants to work in the Department of Telecommunications. Some officers from Department of Telecommunication are sent on deputation to work in M.T.N.L. and they are being paid Rs. 100/- per month as adhoc pay in terms of the order dated 23.10.1990. Similarly, the applicants who are deemed to be on deputation in M.T.N.L. and who are now directed to work in the Department of Telecommunication, should also get the same equal treatment and they should get Rs. 100/- per month as adhoc payment. This is the sum and substance of the applicants' grievance.

The stand of the respondents in brief is that the applicants are still part and parcel of the Department of Telecommunication. There is a proposal for merger/absorption of these employees in M.T.N.L. and the matter is still pending and no final decision is taken. Till such a decision is taken and those employees, including the applicants, continue to be the employees of Department of Telecommunication and they are still work in Department of Telecommunication and, therefore, there is no question of Department of Telecommunication paying these officials the adhoc payment of Rs. 100/- per month in terms of the order dated 23.10.1990.

3. At the time of argument it was contended by the applicants that since they are on deemed deputation with M.T.N.L. and subsequently directed to work in Department of Telecommunication, they should get the same deputation allowance or adhoc pay, as given to other employees under order dated 23.10.1990.

A perusal of the order dated 23.10.1990, which is at page 47 of the paper book, shows that such of the Group 'C' and 'D' staffs of D.O.T. who are on deputation and working in M.T.N.L. will be paid an adhoc payment of Rs. 100/- per month.

On the clear reading of the order, it cannot apply to the applicants, since they are not working in M.T.N.L. on deputation from Department of Telecommunication. But the applicants' say that similar benefits given to those staffs who are on deputation from D.O.T. to M.T.N.L. should be extended to applicants who are deemed to be on deputation in M.T.N.L. but they are working in D.O.T. In our view, the grievance of the applicants is not well founded. The order dated 23.10.1990 applies to a particular class of staffs who are sent on deputation from D.O.T. to M.T.N.L.

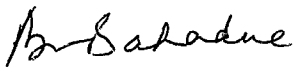
4. As far as the applicants are concerned, though by legal fiction they are deemed to be on deputation with M.T.N.L., admittedly and undisputedly, the applicants are not working under M.T.N.L. ^{from} but before and after the order of deemed deputation,

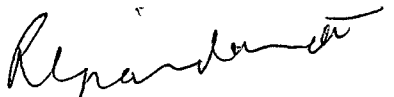
they are working in D.O.T. Their salaries are paid by the D.O.T. and their promotion, disciplinary control, etc. everything is controlled by the D.O.T. Therefore, for all practical purpose, the applicants are employees of D.O.T., though in future as and when the absorption is done and they are absorbed in M.T.N.L., they might become employees of M.T.N.L. Therefore, it is not the case of applicants being the staff of M.T.N.L. and sent to work on deputation in Department of Telecommunication. On the other hand, the applicants are employees of Department of Telecommunication and working in Department of Telecommunication and, therefore, the question of getting any adhoc pay in pursuance of order dated 23.10.1990 does not arise.

5. Respondents' counsel brought to our notice that a Division Bench of this Tribunal, to which one of us was a party (Shri Justice R. G. Vaidyanatha) in O.A. No. 743/93 in the case of National Union of Telecom Engineering Employees Group 'C' V/s. Union of India & Others in an order dated 01.03.1999 had occasion to consider similar question where also the dispute was about adhoc payment of Rs. 100/- per month. In that case, the Division Bench went into this question in detail and held that the employees are not on deputation and held that they are not entitled to the adhoc payment of Rs. 100/- per month. The same reasoning applies to the facts of this case also.

If the applicants have any other grievance like they are not being sent to M.T.N.L. on deputation or that they are not absorbed or repatriated, they have to make proper representation to the administration and if they do not get any relief, they have to approach a Court or Tribunal according to law. In the facts and circumstances of the case, the applicants are not entitled to the reliefs prayed for in the O.A.

6. In the result, the application fails and is dismissed. No order as to costs.


(B. N. BAHADUR)
MEMBER(A).


(R.G. VAIDYANATHA)
VICE-CHAIRMAN.

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