

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH, BOMBAY

OA.NOs. 1216/95, 1217/95, 1218/95, 1219/95, 1220/95.

_____ this the 8th day of February 1996

Hon. Shri B.S.Hegde, Member (J)

Shri V.K.Sharma & Ors.

By Advocate Shri B.S.Chandanani

... Applicant

V/s.

Mahanagar Telephone Nigam Ltd.,
through their Chairman and Managing
Director having their registered office
at Jeevan Bharati Tower No. 1, 12th Floor
124, Cannought Circus, New Delhi & Anr.

By Advocate Shri A.K.Sikri along with Shri
V.S.Masurkar, Central Govt. Standing Counsel ... Respondents

ORDER

(Per; Shri B.S.Hegde, Member (J))

Heard Shri B.S.Chandanani for the applicants
and Shri A.K.Sikri along with Shri V.S.Masurkar for
the respondents.

2. The short question for consideration is
whether this Tribunal has jurisdiction to entertain
this OA. filed by the applicants. The admitted facts
are the applicants though originally belonged to DoT
are working under the respondents, i.e. M.T.N.L. which
is Govt. of India undertaking and are governed by the
Public Sector rules. The main contention in this OA.
is that when they had gone abroad the applicants were
asked to draw 131.25 U.S.Dollors against which they
made representation to the respondents that they have
been paid D.A. at the rate of US \$ 131.25 which is much
lower than Public Sector rates of D.A. for official
travels abroad. Accordingly, they requested the

respondents that the applicants be paid at PSU rates namely 200 U.S. Dollars per day for first 60 days and 150 US Dollars per day for remaining period.

3. The applicants originally impleaded M.T.N.L. as Respondent No. 1 and Chief General Manager, M.T.N.L. Bombay as Respondent No. 2. Today, during the course of hearing the learned counsel for the applicant Mr. Chandanani wanted to amend the OA. by impleading the Union of India as one of the respondents. However, during the course of hearing Mr. Sikri along with Mr. Masurkar, though not filed any reply, raised a preliminary objection that this Tribunal do not have any jurisdiction over Respondents No. 1 & 2 and thereby the OA. filed by the applicants cannot be admitted and no relief be granted to the applicants. In this connection, he draws my attention to Section 14 of the C.A.T. Act describing the jurisdiction, powers and exercise mentioned in the Act. On perusal of the A.T. Act, I find that no Notification has been issued under Section 14(2) bringing the jurisdiction of this Tribunal in such a situation, prima facie the preliminary objection raised by the respondents is required to be sustained. The M.T.N.L. is Govt. of India undertaking and has a separate legal entity of its own. In the absence of such Notification under Section 14(2) of the A.T. Act, I am of the view, that no direction can be issued to M.T.N.L. or even

if the Union of India is impleaded and the applicants are treated as officials of Govt. of India, they cannot claim any relief against the newly added Respondent No. 1 because they have already been paid allowance as per the Govt. of India regulations, thereby it is not open to them to seek enhanced payment from Respondent No. 1.

4. After the hearing was over and before pronouncement of order, the learned counsel for the applicant has drawn my attention to the decision of the Bombay High Court in Mahanagar Telephone Nigam Kamgar Sangh vs. Chief General Manager, MTNL, Bombay & Ors., 1995 (1) CLR 855, wherein the Bombay High Court has held that the members of the Petitioner Union continue to be Central Government employees and as such under S.14 of the Administrative Tribunals Act, the High Court's jurisdiction is ousted and the petitioner will have to move Central Administrative Tribunal. The question that arose for consideration in that case is that the petitioner Union claimed relief that an appropriate direction be issued to the MTNL to absorb their employees and regularise and treat them as employees of MTNL. It was urged in that petition that in the absence of specific order of absorption, the employees taken over continue to be Central Government staff and, therefore, the Court held that the petition ought to be filed before

the Central Administrative Tribunal as it pertains to the service matter of the petitioners. In my view the decisions cited by the Learned Counsel for the applicant does not have any bearing to the issue involved in this case. If the applicants are to be treated as employees of Union Of India, since they have already paid the allowances as per the rules, the question of paying higher allowances as per the MTNL rates does not arise. What we have stated above is since the MTNL has not been notified under the A.T. Act, the question of giving a direction to M.T.N.L. hardly arise. In this case, admittedly, the employees are treated as Government of India employees and they have been paid the allowances as per the rules. However, they are claiming allowances on the basis of MTNL rates which is not permissible.

5. In the light of the foregoing discussions, I am of the view, that this Tribunal has no jurisdiction to adjudicate the grievance of the applicants, who are working in M.T.N.L. at present. Since the M.T.N.L. has not been notified under Section 14(2) of the A.T. Act, this Tribunal cannot give any direction to M.T.N.L. The relief claimed against the Union Of India had already been given, thereby, no further direction can be given to the Union of India. If the applicants are aggrieved and wishes to pursue their remedy with regard to their service conditions, they should approach an appropriate forum. Accordingly, the O.As. are disposed of. No order as to costs.

Misc Appl. No 101/95 to 105/96, in these O.As. stands disposed of

*Vakalatnama Asleby
Vs. S. Masurkar & Respondents*

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(B. S. HEGDE)
MEMBER (J).