

**CENTRAL ADMINISTRATIVE TRIBUNAL
BENCH AT MUMBAI**

1352/95; 354/96 and 769/96

ORIGINAL APPLICATION No. 199

Date of Decision: 14-01-1998

C. Ravindran & ors.

Petitioner/s

Mr. D.V. Ganqal

Advocate for the
Petitioner/s

1. V/s.

Union of India

Respondent/s

Mr. V D Wadhavkar for

Advocate for the
Respondent/s

Mr. M. I. Sethna

CORAM:

Hon'ble Shri Justice R.G. Vaidyanatha, V.C.

Hon'ble Shri M.R. Kolhatkar, Member (A)

(1) To be referred to the Reporter or not ? Yes
(2) Whether it needs to be circulated to other Benches of the Tribunal ? No

Alpinismus

V. C.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH, 'GULESTAN' BUILDING NO.6
PREScot ROAD, MUMBAI 400001

O.A.Nos. 1352/95; 354/96 AND 769/96

DATED : WEDNESDAY THE 14TH DAY OF JANUARY, 1998

CORAM : HON. SHRI JUSTICE R.G. VAIDYANATHA, V.C.
HON. SHRI M.R. KOLHATKAR, MEMBER(A)

O.A.No. 1352/95:

1. C. Ravindran
2. S C Naik
3. N D Rajpathak
4. V V Patil
5. A B Jadhav
6. P S Homkar
7. A A Sernaik
8. N D Natu
9. Srinivasan
10. J N Khandekar
11. S L Ghadge
All employed in India
Government Mint,
Fort, Mumbai-1
(By Adv. Mr. D V Gangal)

..Applicants in
O.A.No.1352/95

V/s.

1. Union of India
through Secretary
Ministry of Finance
Department of Economic Affairs
North Block
New Delhi 110001

2. The Governor
India Government Mint
Fort, Mumbai 400001
(By Adv. Mr. V D Wadhavkar for
Mr. M I Sethna, Counsel)

..Respondents

O.A.No. 354/96 :

Yeshia Guru Swamy
Inspector
Departmental Security Orgn.,
House No.408
Voll. Sansari, PO.Devlali Camp
Dist. Nashik
(By Adv. Mr. D V Gangal)

..Applicant in
O.A.No. 354/96

V/s.



1. Union of India
through Secretary
Ministry of Finance
Department of Economic Affairs
North Block
New Delhi 110001

2. The General Manager
India Security Press
Nashik Road
Nashik
(By Adv. Mr. V S Masurkar,
Counsel)

..Respondents

O.A.No. 769/96 :

N R Chaudhary
Deputy Works Engineer
Currency Note Press
Nashik Road
5-shramik Society
Lokmanya Nagar
Bitco Factory Road
Nashik Road
PIN 422101
(By Adv. Mr. D V Ganga1)

..Applicant in
O.A.No. 769/96

V/s.

1. Union of India
through Secretary
Ministry of Finance
Department of Revenue
North Block
New Delhi 110001

2. The General Manager
Currency Note Press
Nashik Road 422101
(By Adv. Mr. V S Masurkar,
Counsel)

..Respondents

OPEN COURT ORDER

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[Per: R G Vaidyanatha, Vice Chairman]

1. These three cases are filed by the officials of Government Mint, India Security Press and Currency Note Press claiming relief regarding Over Time Allowance (OTA). The respondents have filed reply opposing the applications. We have heard the learned counsel appearing for both the sides.



2. In all these three cases the applicants are claiming higher rate of OTA as provided in S.59 of Factories Act.

3. According to the respondents, the applications are not maintainable and this Tribunal has no jurisdiction and that the applicants are not entitled to higher rate of OTA as per the service rules. Though we have heard the learned counsel for some time even regarding merits, in our view, we need not go into the merits of the case since the point is covered by two earlier decisions of this Tribunal viz., order dated 28.7.97 in O.A.No.962/96 and other connected cases and another order dated 15.12.97 in O.A.No.1148/96 and other connected cases.

4. Mr. Gangal, the learned counsel for the applicants contended that in view of a recent judgment of the Supreme Court reported in 1997(9) SUPREME 469 [GENERAL MANAGER TELECOM Vs. S. SRINIVASA RAO & ORS.] the view taken by this Tribunal in the earlier two decisions requires reconsideration and in view of the law laid down in the latest judgment of the Apex Court the applicants are entitled to prosecute O.As. in this Tribunal.

5. On the other hand the learned counsel for the respondents contended that in view of the earlier two decisions of two different Division Benches of this Tribunal, the question cannot be reagitated and the point is fairly covered by the earlier two decisions.



6. There cannot be any dispute that the question now raised that the applicants can agitate their right for OTA under section 59 of Factories Act has been squarely covered by the earlier two Division Bench decision of this Tribunal. The applicants contend that in view of the latest decision of the Supreme Court mentioned above the earlier two decisions of the Division Bench requires reconsideration.

7. In the latest decision of the Supreme Court in SRINIVASA RAO's case, the Supreme Court has observed that Telecom Department is an industry within the meaning of Industrial Disputes Act, 1947 and the contrary view taken by a Bench of two judges of the Hon. Supreme Court in the two earlier decision viz., SUB-DIVISIONAL INSPECTOR OF POST, VAIKAM & ORS. Vs. THEYYAM JOSEPH & ORS [(1996) 8 SCC 489] and BOMBAY TELEPHONE CANTEEN EMPLOYEES ASSOCIATION Vs. UNION OF INDIA [AIR 1987 SC 2817] are over ruled as they are no longer a good law. Therefore, in view of the latest decision of the Apex Court, we have to hold that Government Mint, India Security Press and Currency Note Press are Industry within the meaning of Industrial Disputes Act, 1947. But in the earlier decision of the Division Bench of this Tribunal in O.A.No.1148/96, in which one of us was a party (R.G.Vaidyanatha, Vice Chairman) it was held that the application was not maintainable on the ground that India Security Press was not an industry and the workers are

employees holding civil posts and therefore they cannot agitate any industrial dispute under the Factories Act before this Tribunal by relying on the two earlier decisions of the Hon. Supreme Court in the case of THEYYAM JOSEPH AND BOMBAY TELEPHONE CANTEEN EMPLOYEES ASSOCIATION. In view of the latest judgment of the Supreme Court our finding on that point does not hold good.

8. It may be mentioned that in the earlier case we did not rest our decision only on the ground that India Security Press is not an industry and therefore the applicants cannot claim relief under Factories Act before this Tribunal, we had also given another reason as to how the applications in respect of industrial disputes are not maintainable in this Tribunal and we have referred to a decision of the Supreme Court JT 1995(7) S.C. 522 [KRISHAN PRASAD GUPTA Vs. CONTROLLER, PRINTING & STATIONERY]. In KRISHAN PRASAD GUPTA's case the Supreme Court has declared that the jurisdiction of Industrial Tribunal, Labour Courts or other Authorities, under the Industrial Disputes Acts or Authority created under any other corresponding Law remains unaffected (vide para 22 of the reported judgment). In para 22 of our judgment in O.A.No. 1148/96 we had observed as follows:

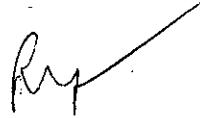
"... in view of the law laid down by the Supreme Court in K.P.GUPTA's case the applicants cannot agitate any right under the Industrial Law before the Central Administrative Tribunal. If the applicants want any relief under the



Industrial law like Factories Act, Payment of Wages Act and any other law they have to approach the appropriate forum under the Industrial Law."

It is in that context we have observed by following K.P.GUPTA's case that the applicant's remedy for claiming any relief under the Industrial Law must be before the competent forum and not before this Tribunal. Though our earlier finding that India Security Press is not an Industry in view of the earlier two decisions of Supreme Court in THEYYAM JOSEPH AND BOMBAY TELEPHONE CANTEEN EMPLOYEES ASSOCIATION may not now be correct in view of the latest judgement of the Supreme Court in SRINIVASA RAO's case, since we have rested our decision on two grounds and though one ground may not now survive, the other ^{the} ground still holds field and therefore the present three O.As. claiming OTA under the Factories Act are not maintainable. We may also mention that in the earlier decision by a Division Bench in O.A.No. 962/96, of which one of us was a Member (Hon. Shri M R Kolhatkar), it was held that in view the K.P.GUPTA's case claiming of relief of OTA under section 59 of the Factories Act is not maintainable. Hence in our view these disputes raised in the present three O.As. is covered by the earlier two Division Bench decisions of this Tribunal and hence we held that the present O.As. are not maintainable.

9. In the result all the three applications are dismissed. However, this is without prejudice to the applicant's claim for relief according to law before an



appropriate forum under the Industrial Law. In the circumstances there would be no order as to costs.

M.R.Kolhatkar

(M.R.Kolhatkar)

Member(A)

R Vaidyanatha

(R G Vaidyanatha)

Vice Chairman

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