

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH

ORIGINAL APPLICATION NO: 398/95

DATE OF DECISION: 20/7/2000

Naval Armament Inspection Staff Assn.
& 2 Ors.

Applicant.

Shri B.Ranganathan

-----Advocate for
Applicant.

Versus

Union of India & 2 Ors.

-----Respondents.

Shri V.S.Masurkar

-----Advocate for
Respondents.

CORAM:

Hon'ble Shri A.V.Haridasan, Vice Chairman
Hon'ble Shri Govindan.S.Tampi, Member(A)

1. To be referred to the Reporter or not?
2. Whether it needs to be circulated to
other Benches of the Tribunal?
3. Library.

Govindan.S.Tampi
MEMBER(A)

abp

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH

ORIGINAL APPLICATION NO:398/95
DATED THE 20th DAY OF JULY, 2000

CORAM:HON.SHRI A.V.HARIDASAN, VICE CHAIRMAN
HON.SHRI GOVINDAN.S.TAMPI, MEMBER(A)

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 Bhave Nagar, Near Pipe Road, Kurla (W), Bombay - 400 070.
2. Shri Paramu Gopinathan Acharya, son of late N.Paramu Acharya residing at Flat No.1/11 Naval Dockyard Colony, Powai, Bhandup, Bombay 400 078 and employed as Foreman (Ammunition) at Naval Armament Inspectorate, Naval Dockyard(Gun Gate), Bombay - 400 023.
3. Shri Balu Shivram Avhad, son of Shri Shivram Rawji Avhad, residing at quarters No.T/4, Naval Armament Depot Colony, Mankhurd, Bombay - 400 088 and employed as Chargeman (Ammunition) at Naval Armament Inspectorate, Naval Dockyard (Gun Gate), Bombay - 400 023. Applicants.

By Advocate Shri B.Ranganathan

V/s.

1. The Union of India, through the Secretary, Ministry of Defence, South Block, Parliament House, New Delhi.
2. The Chief of 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. Respondents

By Advocate Shri V.S.Masurkar

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O R D E R

Per Shri Govindan.S.Tampi, Member(A).

OA.No.398/95 has been filed by the Naval Armament Inspection Staff Association and two others against Union of India and two others seeking reliefs as below:-

- i) extention of the benefit of productivity linked bonus to all the members of the Association working under the Chief Inspector of Naval Armament Inspectorate, Bombay.
- ii) Grant of arrears of productivity linked bonus from 1979-80 with interest @ 18% and
- iii) grant of cost of the application.

2. Applicants indicate that they represent Staff attached to Naval Armament Inspection Unit at Bombay, who are on a common cadre with similar units all over the country. The Ministry of Defence by their letter No.24(1)/80/D(JCM) of 25/8/80 introduced a scheme for productivity linked bonus to civilian employees of establishments/organisations under it for 1979-80 @ 15 days wages. The letter, however, omitted the name of the Naval Armament Inspection Organisation. Applicants appealed to the Hon'ble Prime Minister of India on 23/9/80 seeking to rectify the omission, followed it up by letter on 15/11/80 and 11/11/1981 to the Defence Minsiter. Applicants received on 6/12/1982 a letter from the Sr.Inspector, Naval Armament at Mumbai, forwarding a

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communication dated 2/12/1982, from the Naval Headquarters indicating that the issue was under consideration and granting ad hoc bonus for 1981-82. This was accepted under protest by the applicant. In the meanwhile, a writ petition file by one Shri M.K.Chellappan, working in the Naval Armament Inspection Organisation at Alwaye, before the High Court of Kerala and transferred to the Central Administrative Tribunal, Madras numbered TAK663/87, came to be decided in favour of the individual. On their forwarding a copy of the decision of the Madras Bench to the Director of Naval Armament Inspection at Naval Headquarters, the applicants were informed that the Government had filed a Special Leave Petition against the Tribunal's decision. The S.L.P. was rejected by the Hon'ble Supreme Court. On 5/7/90, Respondent No.3 intimated that the Government did not, inspite of their best efforts, accept the proposal to extend the scheme to applicants and their members. With the result, the employees under Naval Armament Inspection Organisation at Alwaye alone got the benefit of the productivity Linked bonus scheme, which was denied to all others including the applicants who were performing similar functions, belonging to the same cadre, and who ^{were} ~~was~~ transferrable from Alwaye to some other place and back. Applicants also found that the Civilian employees of Army and Airforce Armament Inspection Organisation, were also covered by the scheme. Applicant's petition No.OA-660/1990 before this Bench of the Tribunal was disposed of on 20/12/91 directing the respondents to consider the grant of the productivity linked bonus to the applicants, if they ^{forward} ~~forward~~

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an eventual link in the production or manufacturing process. The same was also confirmed in review. On 29.9.92, Government of India informed the Chief Naval Staff that only those drawing emoluments upto and including Rs.2,500/- p.m. would be entitled to productivity linked bonus and that too limited to Rs.1,600/-. This was discriminatory. Finally, on 18/3/1993, Government of India, intimated the extension of the scheme to Civilian employees of the Navy, but with effect from the accounting year 1991-92, which had the effect of notifying this Tribunal order. As the Tribunals order specifically referred to the link between them and the process of manufacture or production, which has been now established, the applicants plead that the benefit should accrue to them from 1979-80, itself when the scheme was introduced. Hence this application.

3. Respondents content the claim by indicating that the civilian employees of the Naval Armament Inspection Organisation were not covered by the Productivity Linked Bonus Scheme, introduced by the Government and could not therefore claim it as a right. They were given ad hoc bonus they had accepted, though under protest. Moreover, at present all the Naval Armament Inspection Units have been covered by the Productivity Linked Bonus scheme, following the decision of this Bench of the Tribunal in OA No.660/90 with effect from 1991-92. Therefore they should have no complaint and their plea for giving retrospective effect to the scheme has no basis, plead the respondents.

4. Heard both the Counsels on 17/7/2000. Shri B.Ranganathan the learned counsel for the applicants strongly reiterate the contentions in the pleadings and argues that as the Government had finally accepted in principle, the extension of the benefits of the scheme to all the employees of the Naval Armament Inspection Organisation, it is only logical that the benefit should accrue to the applicants from 1979-80, when the scheme was introduced. Nothing less than was correct or proper. Arguing for the respondents, Shri V.S.Masurkar, contests the claim, and states that the applicants were already receiving ad hoc bonus and giving retrospective effect to the scheme as prayed by the applicant would lead to colossal financial burden being placed on the Government.

5. On carefully deliberating on the rival contentions and pleadings we are convinced that appellants do have a case, though partially, the eligibility of the applicants for the benefits of the productivity linked bonus is no longer a matter of contention, the Government of India having extended the scheme of Productivity Linked Bonus to Civilian employees of the Navy vide their memorandum No.24(9)/80/D(JCM) dated 28/9/1983, as communicated by the letter dated 18/3/1993 and all the units covered by the applicant No.1 duly find a place in the annexure. That matter is no longer in dispute. The point for determination is only the period of its applicability is whether it should be only from the accounting year 1991-92 or from 1979-80, when the scheme was originally introduced. It is brought on record that

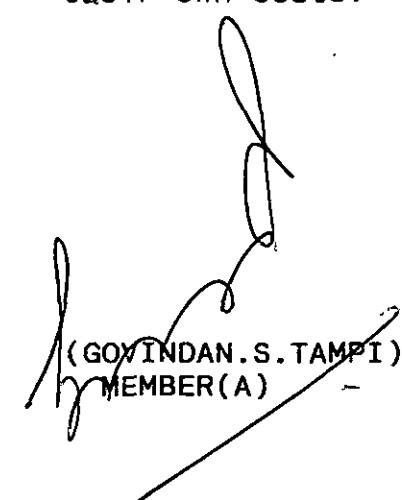
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the applicants have been making representations from September, 1980 onwards, i.e. immediately after the scheme was promulgated in August, 1980 to all concerned. Their efforts got a boost with the decision of the Madras Bench of this Tribunal dated 28/1/1988 in OA No.TAK 663/87, filed by Shri Chellappan of the Alwaye Unit who was similarly circumstanced as the applicants. They had followed it up with representation to the Department once again, and then came up with OA-660/1990 before this Bench of the Tribunal, which was disposed of on 30/12/1991. Government's decision, finally correcting its stand followed therefrom. That being the case, we are of the considered view, that the applicant should get the benefit of the scheme at least from the accounting year, when they made a representation to the Government following the decision of the Madras Bench of the Tribunal i.e. from 1988-89 and not from 1991-92. Their plea for getting the benefit from 1979-80 has no^f basis, as the scheme as it stand then did not include them, and the first development showing the acceptance of their plea came only by the decision of the Madras Bench on 28/1/1988. The respondents' plea that the grant of productivity linked bonus to the applicants would impose a heavy burden as the exchequer, we are not concerned of, as they were already in receipt of ad hoc bonus and what is required is only the re-working of the amount of productivity linked bonus and adjusting it against ad hoc bonus already paid. Even otherwise there is no justification to deny to the applicants the benefit what their colleagues elsewhere have been legally permitted to avail themselves of. It will be a discrimination this Tribunal would not countenance on grounds of both law and equity.

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6. In the result the applicant's prayer succeeds though partially. Respondents are directed to grant the applicants productivity linked bonus (PLB) from the accounting year 1988-89. If any ad hoc bonus has been given to the applicants in that year, the same should be adjusted and the balance should be paid to them. This exercise should be completed before the expiry of four months from this order or at any rate before 30/11/2000.

7. The matter is accordingly disposed. Parties to bear their own costs.



(GOVINDAN S. TAMPI)

MEMBER(A)

abp



(A. V. HARIDASAN)

VICE CHAIRMAN

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