

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

MUMBAI BENCH

ORIGINAL APPLICATION NO: 54/97

Date of Decision: 18.6.1998

The Gen. SEC & Ors.

.. Applicant

Shri P.A.Prabhakaran

.. Advocate for
Applicant

-versus-

Union of India & Ors.

.. Respondent(s)

Shri R.R.Shetty

.. Advocate for
Respondent(s)

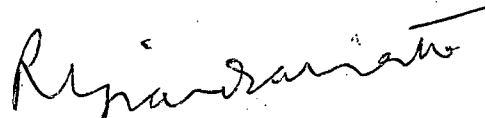
CORAM:

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

The Hon'ble

(1) To be referred to the Reporter or not ?

(2) Whether it needs to be circulated to
other Benches of the Tribunal ?


(R.G.VAIDYANATHA)
VICE-CHAIRMAN

M.P. No.72/98 only to bring to the notice of the Tribunal certain clarifications on the question of jurisdiction. M.P. is allowed. I have heard the learned counsel appearing on both sides.

2. The first applicant is of MES Employees Union and the second applicant is an MES Official working in the office of the Garrison Engineer (Air Force), Jamnagar who have filed this O.A. claiming "Ration Money". The applicants' case is that the MES Civilian employees working in the Air Force participated in the "Operation Red Alert" (for short ORA) exercised during the period from 23.1.1987 to 26.6.1987. According to the Government Order all the Air Force and Defence Civilian Employees who participated in the "ORA" are entitled to "Ration Money" in lieu of free ration. The applicants' grievance is that the Government has not yet paid their "Ration Money" inspite of their repeated demands, and therefore they have filed this O.A. praying for a direction to the respondents to make payment of "Ration Money" with interest and costs.

3. The respondents main defence is that the applicants who represent the MES Civilian Employees are not entitled to the "Ration Money" as per the policy decision of the Government of India. The stand of the Respondents is that this "Ration Money" is granted only to Air Force Civilians and not to MES employees and other Civilians in Defence Services. That this Tribunal cannot interfere with the policy decision taken by the Government of India. It is stated that the applicants do not come within the meaning of Defence Civilian Employees mentioned in the Government Order and hence not entitled to claim "Ration Money".

4. The short point for consideration is whether the applicants are entitled to "Ration Money" or not.

5. The learned counsel for the respondents is right in his submission that a Court or Tribunal should not interfere with the policy decision. He also relied on the decision of the Apex Court reported in (1997 SCC (L&S) 1003) (State Fisheries Officers Association & Ors. V/s. State of West Bengal & Another) wherein the Supreme Court has ruled ~~out~~ that in a matter pertaining to policy decisions the Tribunal cannot interfere and cannot give any direction. There is no dispute on this question of law.

is about view
The point of dispute between ~~decision~~ of the Government which is recorded in the letter dt. 21.12.1987. The question is whether the MES Civilian Employees deputed to work in the Air Force come within the ambit of this letter or not is the only matter to be decided in this case. Therefore, we are not concerned in this case about the policy decision of the government to grant "Ration Money" to certain officers and not to grant "Ration Money" for certain other officers, but we are only concerned with the interpretation of the words used in the letter dt. 21.12.1987 and then find out whether the ^{M.E.S. officers are} included in the letter or not. If the applicants are included in that letter then they are entitled to the allowance in question, but if they are excluded in the letter on interpretation then they cannot claim the allowances. In this case, therefore, the whole thing turns upon the interpretation of the letter dt. 21.12.1987.

5. The letter dt. 21.12.1987 which is relied on by the counsel for the parties reads as follows :

" Sub: CONCESSIONS : OPERATION RED ALERT

Sir,

I am directed to say that the President is pleased to decide that the provisions contained in the following letters of this Ministry will be applicable to Air Force Personnel who were deployed in Operation Red Alert during the period 23 Jan 87 to 26 Jun 1987 :-

- (a) Full Field Service Concessions detailed in annexure 'A' and 'C' of this Ministry's letter No. Air HQ/S/24016/19/PP&R/98-S/D(Pay/Services) dt. 25.1.1964 as amended. Defence Civilians serving in the Air Force units/formations deployed in the Operation will also be entitled to Field Service Concessions as given in Annexure 'C' to the Ministry of Defence letter *ibid* if Air Force Personnel in such Units/Formations are granted full Field Service Concessions.
- (b) Separation Allowance to Air Force Officers as per Rule 182 of Pay and Allowances Regulations for Indian Air Force and Ministry's letter No. 1(5)/83/8(Pay/Services) dt. 10.2.1983.

2. Units/Formations deployed in Operation Red Alert will adopt war system of Accounting for the duration of the operation.

3. This letter issues with the concurrence of Finance Divn. of this Ministry vide their U.O. No. 1029/5/P&W/AF dt. 16.12.1987."

In the main part of the letter the Ration Allowance is granted only to Air Force Personnel. Then clause (a) says that even certain Civilians are also entitled to this allowance. The relevant portion is that "Defence Civilians serving in Air Force Units/Formations" are also entitled to this allowance. There cannot be any dispute that Garrison Engineer or MES Official is an official working in the Defence Services and will come within

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the definition of Defence Civilian. Therefore, the applicants come within the definition of Defence Civilians which finds a place in the above letter. Then it is also not disputed and in fact it is admitted that the applicants were working in the Air Force Unit at the relevant time and did participate in the ^{^OKA"}"BAO". Therefore, the applicants will become Defence Civilians in Air Force Unit/Formations within the meaning of the above letter. Hence the argument of the learned counsel for the respondents that this letter applies to only Civilian Employees working in the Air Force does not appeal to me. It is nowhere said that Civilian Employees working in Air Force, it has used the word Defence Civilians serving in Air Force Unit/Formations which takes care of all Defence Civilians who were deputed to work or engaged to work in Air Force Units/Formations. It cannot be restricted or confined only to Air Force Civilians as contended by the learned counsel for the Respondents. Hence on a plain reading and proper interpretation of this letter, it can easily be said that all Defence Civillians serving in Air Force Units/Formations are entitled to this allowance. As already stated there is no dispute that the applicants who are MES officials were serving in the Air Force Units/Formations at the relevant time and participated in the "BAO" and therefore, they are entitled to "Ration Money" within the meaning of the above letter dt. 21.12.1987.

6. The learned counsel for the respondents invited my attention to a decision of the Apex Court in the case of Union of India and Anr. V/s. Pratap Singh & Ors.

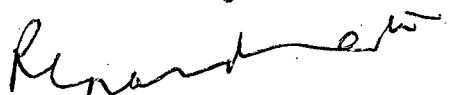
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reported in (1995(29) ATC 187). There, the dispute was whether a civilian employee who get his ration is entitled to allowance or not. The Supreme Court has pointed out that Civilian who participated in the operation are entitled to ration allowance in view of free ration, but those officers who have already drawn ration in the entitled category are not entitled to ration allowance. In my view, this decision has no bearing on the facts of the present case.

From a proper interpretation of the letter dt. 21.12.1987 I can say that the applicants are covered by the word Defence Civilians mentioned therein and therefore they become entitled category to get the ration money. There is no allegation that the applicants have drawn rations. If the applicants have not drawn ration and since they have participated in the operation in question they are entitled to ration money.

7. In the result, the O.A. is allowed. The respondents are directed to pay "Ration Money" by treating the applicants as Defence Civilians as mentioned in the letter dt. 21.12.1987 by treating the second applicant and the members of the first applicant Union ^{who} participated in the ^{"Operation Red Alert"} ~~"RAO"~~ as ~~MSS~~ Defence Employees and the allowance shall be paid as per rules and the said "Ration Money" shall be paid in the same rate as paid to other Air Force Civilians. The respondents are granted four months time ~~from to day~~ to comply with the orders. ~~In the circumstances of the case~~ there will be no order as to costs. The applicants prayer for grant of interest is rejected.


(R.G. VAIDYANATHA)
VICE- CHAIRMAN.

Dated: 10/4/2000

Learned Counsel on both
sides present and heard.

Adjourned to 19/6/2000.

^{Sign}
(S.C. Jain)
M(D)

^{MS}
(~~Asw~~ Bahadur)
M(A)

H.

19/6/2000-42

Heard Shri P.A. Prabhakaran,
learned Counsel for Applicant.
says - that he will not
press CP-35/99. Accordingly
CP-35/99 is disposed of
as not pressed.
Shri R.K. Shetty for Respondents.

^{Shetty}
(D.S. Bawga)
M(A)

^{for}
(R.G. Vaideyanatha)
V.C.

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dt. 19/6/00
order/Judgement despatched
to Applicant/Respondent(s)
on 27/6/00

MS
28/6

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