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Central Administrative Tribunal

HYDERABAD BENCH : AT HYDERABAD

O.A. No. 211 of 1989

Date of Decision :

~~ExAxiNex~~

Mr. A.K.Mishra and 36 others	Petitioner.
Mr. T.Jayant	Advocate for the petitioner (s)
Versus	
Union of India and 3 others	Respondent.
Mr. N.Bhaskar Rao, Addl. CGSC	Advocate for the Respondent (s)

CORAM :

THE HON'BLE MR. J.Narasimha Murthy, Member (Judl.)

THE HON'BLE MR. R.Balasubramanian, Member (Admn.)

1. Whether Reporters of local papers may be allowed to see the Judgement ?
 2. To be referred to the Reporter or not ?
 3. Whether their Lordships wish to see the fair copy of the Judgment ?
 4. Whether it needs to be circulated to other Benches of the Tribunal ?
 5. Remarks of Vice Chairman on columns 1, 2, 4
(To be submitted to Hon'ble Vice Chairman where he is not on the Bench)
- m


HJNM
M(J)


HRBS
M(A)

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH:
AT HYDERABAD

ORIGINAL APPLICATION NO.211 of 1989

DATE OF JUDGMENT: 8-2-1991

BETWEEN:

S/Shri

1. A.K.Mishra
2. K.A.N.Rao Patnaik
3. B.D.Prasad
4. G.Narayana
5. Joseph Pitt
6. V.S.Telang
7. S.N.Das
8. B.Brahmajirao
9. K.Srinivasa Rao
10. Chakraborty
11. R.Raja Rao
12. J.Kondaiah
13. Ch.R.K.Mohan
14. K.V.Jagannadhan
15. T.Appalaraju
16. P.L.Kurwar
17. S.Padmarao
18. P.Ramarao
19. S.Ahmad
20. A.Appa Rao
21. B.Sunayya
22. J.Janababu
23. N.Trimurthy Raju
24. P.Appa Rao
25. Joy Thannickel
26. V.V.Ratnachary
27. A.Sundara Rao
28. K.R.Prasad
29. G.Latchayya
30. Nagendrakumar

.. Applicants

AND

1. Union of India represented by
the Secretary, Ministry of Defence,
DHQ P.O., New Delhi.
2. The Chief of Naval Staff,
Naval Headquarters,
New Delhi-11.
3. The Flag Officer Commanding-in-Chief;
Headquarters, Eastern Naval Command,
Visakhapatnam-14.
4. The Admiral Superintendent, Naval Dockyard,
Visakhapatnam-14.

.. Respondents

FOR APPLICANTS: Mr. T. Jayant, Advocate

FOR RESPONDENTS: Mr. Naram Bhaskar Rao, Addl. CGSC.

CORAM: Hon'ble Shri J. Narasimha Murthy, Member (Judl.)

Hon'ble Shri R. Balasubramanian, Member (Admn.)

JUDGMENT OF THE DIVISION BENCH DELIVERED BY THE HON'BLE
SHRI J. NARASIMHA MURTHY, MEMBER (JUDL.)

This is a petition filed by the petitioners for a relief to direct the respondents herein to include the Russian Translation Cell (v) in Item-II of Annexure-I of the Government of India, Ministry of Defence letter No. 24(1)/80/D/(J c DN) dated 25.8.1980 for the grant of productivity linked bonus to the applicants herein with retrospective effect from the financial year 1979-80. The brief facts of the petition are as follows:-

The Russian Translation Organisation had been under the administrative control of the Headquarters, Eastern Naval Command, Visakhapatnam. While so, the Chief of Naval staff, Naval Headquarters, New Delhi, the 2nd respondent herein, by his order dated 17.9.1979 transferred the local control of the above cell to the Admiral Superintendent, Naval Dockyard, Visakhapatnam, the 4th respondent herein. Thereafter the 2nd respondent by his order dated 16.6.1980 directed that the Translation and Reproduction cells may be registered under the Factories Act.

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2. The Government of India, Ministry of Defence, New Delhi by an order dated 25.8.1980 decided to bring the eligible categories of civilian employees of some establishments/organisation under the Department of Defence comprising industrial/non-industrial/supervisory/ personnel including gazetted officers under the purview of the scheme of Productivity Linked Bonus and conveyed the sanction of the President to an adhoc payment equal to 15 days wages for the financial year 1979-80. Under Item-II of Annexure-I thereto, the list of names of units of Naval Dock Yard, Visakhapatnam and supporting units has been given. In the said list, the name of Russian Translation and Reproduction Cell, which is also a supporting unit of Naval Dock Yard was not included by omission. Since this unit is also a supporting unit of Naval Dock Yard, the petitioners claimed Productivity Linked Bonus for the year 1979-80 but the same was turned-down stating that the said unit was not included in the Ministry of Defence letter dated 25.8.1980. Therefore, the petitioners submitted a representation dated 28.11.1980 to the 4th respondent and the 4th respondent requested the 2nd respondent by a letter dated 29.4.1981 to take necessary action to issue an amendment for inclusion of the said unit for Productivity Linked Bonus.

3. Thereupon, the 2nd respondent by his letter dated 28.5.1981 informed the 4th respondent that the matter was still under consideration of the Government. The 2nd respondent by another letter dated 23.1.1982 directed the Flag Officer Commanding-in-Chief, Visakhapatnam to forward information regarding the units for which the Productivity Linked Bonus should be considered. In reply, the Flag Officer Commanding-in-Chief furnished the information by a

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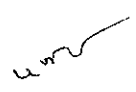
letter dated 2.3.1982 in which Russian Translation Cell (V) has been mentioned at Item-I.

4. While so, the 2nd respondent by his letter dated 25.11.1983 informed the 4th respondent^{that} the question of extension of Productivity Linked Bonus to the left out categories was under active consideration of the Government. As the matter was pending for a long time, the 3rd respondent again requested the 2nd respondent to intimate the present position. In reply, the 2nd respondent informed that the case is still under consideration by the Government and that any decision in the matter will be communicated as and when received.

5. Thus, the matter is stated to be still under consideration by the Government for the last 10 years inspite of repeated correspondence by the authorities, representations of the individuals and staff side organisation. The applicants therefore submitted a representation dated 24.11.1988 to the 4th respondent requesting for early settlement of the matter indicating their intention to approach the Central Administrative Tribunal for justice. But till now no orders have been passed by them in the matter. In the above circumstances, the applicants filed this application for the above said relief.

6. The respondents filed a counter, the contents of which are as follows:-

The Russian Translation Cell but not the Russian Translation Organisation has been under the administrative control of Headquarters, Eastern Naval Command. The Cell



was transferred to the control of the Admiral Superintendent, Naval Dockyard, Visakhapatnam with effect from 17.9.1979. No firm directive was issued for registering the said Cell under the Factories Act. According to the order dated 25.8.1980 issued by the Ministry of Defence, adhoc payments equal to 15 days by way of Productivity Linked Bonus was payable to eligible civilian employees for the financial year 1979-80. Since the Annexure-I of the said order did not show the name of the Russian Translation Cell (RTC) the employees working in the said Cell were not eligible for the Productivity Linked Bonus. The question of extension of the PLB Scheme to the other categories who were left out has been engaging the attention of the Government. The determining factors for the purpose of eligibility for the grant of the Productivity Linked Bonus are as under:-

- a) The units should be independent and not part of a larger unit;
- b) Should be engaged in Production, manufacturing and supply of tangible material goods;
- c) The employees in the units should be predominantly civilians; and
- d) The bulk of the civilian employees should have been categorised as industrial workers in accordance with the provisions of the Industrial Disputes Act.


Accordingly, only such of those units which satisfied the above conditions have been granted the Productivity Linked Bonus. All the units registered under the Factories Act or under the Naval Dockyard, Visakhapatnam have been granted the Productivity Linked Bonus. However, units which

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satisfied eligibility conditions have been granted the Bonus. There is no discrimination so as to attract the provisions of the Articles 14 and 16 of the Constitution since the eligibility conditions for the grant of the Productivity Linked Bonus have not been satisfied by the Russian Translation Cell. Similarly, other units which were not qualified have not been granted the Productivity Linked Bonus. The policy for grant of Productivity Linked Bonus is under review by the Government and when a final decision is taken, further necessary action will be taken in the matter. So, it is stated that the applicants have failed to make out any case for grant of the relief prayed for and the application is liable to be dismissed.

7. Shri T. Jayant, learned counsel for the petitioners and Shri Naram Bhaskar Rao, Addl. CGSC for the respondents, argued the matter. Shri Jayant contended that the Russian Translation Cell is an Industry and by mistake it was not included in the list of units mentioned in the order dated 25.8.1980 for grant of Productivity Linked Bonus. A number of representations were made to the Government since last 10 years but no reply was given and they again made a representation on 24.11.1988 to the 4th respondent herein requesting for early settlement regarding the grant of Productivity Linked Bonus for the financial year 1979-80 but so far the respondents did not give any reply.

8. Shri Bhaskar Rao argued that the Russian Translation Cell is not a production unit and the production units that are eligible for grant of Productivity Linked Bonus were mentioned in the Annexure-I to the order dated 25.8.1980 and the employees of those units were getting the Productivity



To

1. The Secretary, Union of India, Ministry of Defence,
DHQ P.O, New Delhi.
2. The Chief of Naval Staff, Naval Headquarters,
New Delhi.
3. The Flag Officer Commanding-in-Chief,
Headquarters, Eastern Naval Command,
Visakhapatnam-14.
4. The Admiral Superintendent, Naval Dockyard,
Visakhapatnam-14.
5. One copy to Mr.T.Jayant, Advocate, CAT.Hyd.Bench.
6. One copy to Mr. N.Bhaskar Rao, Addl. CGSC. CAT.Hyd.Bench.
7. One copy to Mon'ble Mr.J.Narasimha Murty, Member(J)CAT.Hyd.
8. One spare copy.

pvm



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FOR ORDERS OF THE HON'BLE TRIBUNAL.

Original Application No. 211 of 1989.

The above Original Application has been filed by the Applicants for a direction to the Respondents to include the Russian Translation Cell, for the grant of productivity Linked Bonus, as per the Government of India letter dt.25-08-1980.

One of the Applicant has given his 1st representation on 28-11-1980 and correspondence was going on and the Applicants were in receipt of replies from the Department stating that any decision in the matter will be communicated as and when received. No decision has so far been communicated.

The office raised an objection as to the maintainability under section 21(2)(a) of the Act 13 of 1985, which prohibits the Tribunal to entertain any Application for the grievance of the Applicant, if it is made beyond the period of three years, immediately preceeding the date of constitution of the Tribunal.

It is clear that the respondents have by affirming the applicants that their claims is under consideration have left the matter open. The applicants were presented in awaiting for a decision & not rushing to the court. If well as further rep were given they have approached the Tribunal. The application is not barred by limitation. It may be presented for consideration.

The counsel for the Applicant states as follows :-

" Since the Applicants are being informed repeatedly upto 18-07-1988, that the matter is still under consideration, they did not file O.A. They finally represented on 24-11-1988 and filed this Original Application, as no reply is received. Hence the O.A. is maintainable."

Submitted for orders as to the maintainability.

DEPUTY REGISTRAR (J)

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REGISTRAR

Further orders dictated in Court are on Order sheet
17.3.89
28/3/89
R2/107

17/3

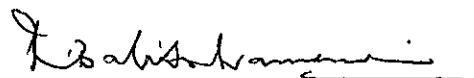
Linked Bonus. The other units which are not eligible for grant of Productivity Linked Bonus were not mentioned in the Annexure-I to the order dated 25.8.1980. So these units have no claim for grant of Productivity Linked Bonus.

9. The petitioners made a number of representations since last 10 years but the respondents did not give any response and the petitioners were only told that the Government is considering the matter. What happened to the consideration the respondents did not know. On 24.11.88 the petitioners made another representation but no reply was sent to the petitioners. In these circumstances, we like to direct the respondents to dispose of the representation given on 24.11.1988 with regard to the claim of the petitioners, within a period of two months from the date of receipt of this order.

10. With these directions, the application is disposed of. There is no order as to costs.

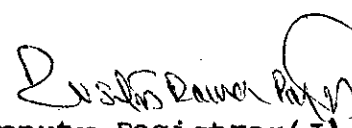


(J. NARASIMHA MURTHY)
Member(Judl.)



(R. BALASUBRAMANIAN)
Member(Admn.)

Dated: 8th February, 1991.


Deputy Registrar(J)

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CHECKED BY

APPROVED BY

TYPED BY

COMPARED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
HYDERABAD BENCH HYDERABAD

THE HON'BLE MR.B.N. JAYASIMHA : V.C.

AND

THE HON'BLE MR.D. SURYA RAO : M(J)

AND

THE HON'BLE MR.J.NARASIMHA MURTY:M(J)

AND

THE HON'BLE MR.R.BALASUBRAMANIAN:M(A)

Dated: 8-2-1991.

~~ORDER~~ / JUDGMENT:

M.A./R.A. /C.A. NO.

in

T.A.No.

W.P.No.

O.A.No.

211/89

Admitted and Interim directions
issued.

Allowed

Disposed of with direction

Dismissed

Dismissed as withdrawn

Dismissed for default

M.A. Ordered/Rejected

No order as to costs.

