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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH

AT HYDERABAD

C.A. 1442/95.

Dt. of Decision : 05-08-96.

- | | |
|--------------------|---------------------|
| 1. G.Ananda Paul | 10. T.Lakshmi Devi |
| 2. S.Mahboob Bee | 11. L.Sambasiva Rao |
| 3. A.Khaja Hussain | 12. P.Ramesh |
| 4. J.Anjaneyulu | 13. G.Maruthi |
| 5. D.Obulesu | 14. T.Pakkiramma |
| 6. R.Ibrahim | 15. B.Narayana Rao |
| 7. S.Imam Saheb | 16. N.Kullayappa |
| 8. R.Sreenivasulu | 17. T.Vijaya Kumar |
| 9. R.Narayana | 18. N.Mahaboob Bee |

.. Applicants.

Vs

1. The Superintendent of Post Offices,
Anantapur Division, Anantapur.
2. The Chief Postmaster General,
A.P.Circle, Hyderabad-1.
3. The Postmaster, Anantapur, H.O.
4. The Postmaster General,
A.P. Southern Region, Kurnool.
5. The Union of India, Rep. by the
Director General, Dept. of Posts,
Dak Bhaven, New Delhi-110 001.

.. Respondents.

Counsel for the Applicants : Mr. T.V.V.S.Murthy

Counsel for the Respondents : Mr. K.Ramulu, Addl.CGS^C.

CORAM:

THE HON'BLE SHRI R. RANGARAJAN : MEMBER (ADMN.)

ORDER

Oral Order (Per Hon'ble Shri R. Rangarajan, Member (Admn.)

Heard Mr.T.V.V.S.Murthy, learned counsel for the applicants and Mr. K.Ramulu, learned counsel for the respondents.

2. There are 18 applicants in this OA who were working as Part-time Contingent Casual Labourers under R-1. R-1 conveyed directions to R-3 by his letter No.K3/Staff/Dlgs dated 20-02-1995 (Annexure A-1, page-9) withdrawing the weekly paid holidays to the part-time contingent casual labourers. Thus it is alleged that some amount has to be recovered from the applicants herein as per the chart given ~~has~~ (Annexure-I at pages 10, 11 and 12) ~~to be recovered from the applicants herein~~ as excess paid for the Saturdays and weekly holidays. This application is filed for setting aside the impugned letter No.K3/Staff/Dlgs dated 20-02-95 holding it as illegal and arbitrary.

3. The main contention of the applicants in this OA is that the weekly holidays were withdrawn by the Postal department for the part-time contingent casual labourers by order dated December 1990 i.e., 5 years before the actual recovery order issued on 20-02-95. Payment for Saturdays and weekly holidays were paid even after the issue of the letter dated December 1990. Hence it is not proper for the respondents to recover the excess paid from an earlier date earlier to 20-02-95.

4. It is also the case of the applicants that they worked during Saturdays and weekly holidays and on these days they were given jobs like cleaning of the office premises etc. and hence they are entitled for the payment on those Saturdays and weekly holidays as they have constructively worked on those

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days. It is the case that the respondents to produce the records to show that they have not worked on the holidays and Saturdays before recovering the salary paid to them on these days. The respondents submit that the circular withdrawing the weekly holidays for part-time contingent casual labourers was issued on December 1990 and hence they are not entitled for payment on weekly holidays from 1-1-91. But it is admitted by the respondents that if they have worked on those weekly holidays they are entitled for payment. They rely on the judgement of this Tribunal in OA.241/94 decided on 29-3-94. In that OA also the recovery from the applicants was to be effected by memo dated 27-10-93 long after the issue of the circular dated December 1990. In that OA a direction was given to recover the excess amount for the weekly holidays if the applicants therein have not worked on weekly holidays from 1-1-91 onwards after perusing the relevant records.

5. This Tribunal is consistently holding the view that recovery can be made only prospectively and not retrospectively. The circular withdrawing the weekly holidays for the contingent casual labourers was issued in December 1990 and hence the contingent casual labourers cannot get payment for weekly holidays from 1-1-91 if they have not worked on those holidays. Just because the order for recovery was issued in December 1995 it does not mean that the recovery can be made only for the weekly holidays after 1995. If the payment has been made erroneously the same can be recovered if the recovery is for the period on or after 1-1-91. But the respondents should make sure that the applicants herein have not actually worked on those holidays. The above view is in consonance with the view taken by this Tribunal in OA.241/94 which was decided on 29-3-94. Hence in this case also a direction similar to what was given in OA.241/94 is appropriate.

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6. In the result, the following direction is given:-

It is hereby declared that the applicants are entitled to the wages for such of the weekly holidays on which they actually worked and the respondents are free to recover the amount in regard to the amounts paid for weekly off days on and from 1-1-91 on the days on which they had not worked. In pursuance of this order the Head of the Unit in which respective applicants are working has to verify from records as to whether the concerned applicant worked on any of the weekly off days and inform the concerned applicant about the same before recovery, if any, in pursuance of this order is effected. If any of the applicants is aggrieved with the order to be passed by the Head of the Unit in pursuance of this order he is free to move this Tribunal by way of MA in this OA.

7. If any recovery is to be effected from the applicant the same may be made in easy instalments so as to avoid hardship to the applicants.

8. The OA is ordered accordingly. No costs.



(R. Rangarajan)
Member (Admn.)

Dated : The 05th August 1996.
(Dictated in Open Court)

Avilavalli
DY-Registrar (S)

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O.A.1442/95.

Copy to:-

1. The Superintendent of Post Offices, Anantapur Division, Anantapur.
2. The Chief Postmaster General, A.P.Circle, Hyd.
3. The Post Master, Anantapur, H.O.
4. The Postmaster General, A.P.Southern Region, Kurnool.
5. The Director General, Department of Posts, Union of India, Dak Bhavan, New Delhi.
6. One copy to Sri. T.V.V.S.Murthy, advocate, CAT, Hyd.
7. One copy to Sri. K.Ramulu, Addl. CGSC, CAT, Hyd.
8. One copy to Library, CAT, Hyd.
9. One spare copy.

Rsm/-

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05/8/96

GA-1442/95

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THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH HYDERABAD

THE HON'BLE SHRI R. RANGARAJAN: M(A)

DATED: 5/8/96

~~ORDER/JUDGEMENT~~
~~O.A. NO./R.A./C.P. NO.~~

G.A. NO.

1442/95

~~ADMITTED AND INTERIM DIRECTIONS ISSUED~~
~~ALLOWED~~
~~DISPOSED OF WITH DIRECTIONS~~
~~DISMISSED~~
~~DISMISSED AS WITHDRAWN~~
~~ORDERED/REJECTED~~
~~NO ORDER AS TO COSTS.~~

YLKR

II COURT

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केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal
प्रेषण/DESPATCH
21 AUG 1996
हैदराबाद न्यायपीठ
HYDERABAD BENCH