

(24)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH  
AT HYDERABAD.

O.A.NO. 1193 of 1995.

Between

Dated: 19.2.1996.

1. K. Devakumari.
2. B.Nageswar Rao.
3. J.Samuel.
4. P.Madhamma.
5. P.Ramanna.
6. C.Seethamma.
7. P.Sreenivasulu.
8. U.Deva Sundaram.
9. H.Rama Bai.
10. P.Lakshmi Reddy

... Applicants

And

1. Union of India, represented by the Director General Posts, Ministry of Communications, New Delhi.
2. Post Master General AP Southern Region, Kurnool.
3. Superintendent of Post Offices, Kurnool Division, Kurnool.
4. Post Master, Head Post Office, Kurnool.

... Respondents

Counsel for the Applicants : Sri. B.S.A.Satyanarayana  
Counsel for the Respondents : Sri. K. Ramloo, Addl. CGSC.

CORAM:

Hon'ble Mr. R.Rangarajan, Administrative Member

Contd:....2/-

(24)

O.A.No.1193/95

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Date of Order: 19.2.96

J U D G E M E N T

X As per Hon'ble Shri R.Rangarajah, Member (Admn.) X

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There are 10 applicants in this OA who are working as Part-time Contingent <sup>Casual</sup> Labourers under R3 and R4. R2 conveyed directions to R3 by letter No. EST/I/IR/Misc./93 dated 20.10.93 which was reconveyed by R3 vide his letter No. A2/8/Rlgs. dated 4.2.94 withdrawing the weekly paid holidays to the Part-time contingent casual labourers. Thus it is alleged that an amount of Rs.23,224 is directed to be recovered from the applicants herein as excess paid for the Saturdays and weekly holidays. This application is filed for quashing the proposed recovery order holding it as illegal <sup>and</sup> arbitrary.

2. The main contention of the applicants in this case is that the weekly holidays were withdrawn by the Postal department for the Part-time contingent casual labourers by order dated December 1990 i.e. 4 years before the actual recovery order issued on 4.2.94. 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 4.2.94.

3. 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. Learned counsel for the applicant further submitted that it is the responsibility of the department to show they have not worked on the holidays and Saturdays before <sup>Monday</sup> the salary paid to them on these days. Even if presuming that the recovery has to be made it is only after ensuring that the casual labourers have not worked on weekly holidays.

4. 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. Otherwise the recovery has to be effected. 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 1994 it does not mean that the recovery can be made only for the weekly holidays after 1994. If the payment has been made erroneously the same can be recovered if the recovery

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Copy to:-

- 1- The Director General Posts, Ministry of Communications, Union of India, New Delhi.
2. Post Master General, A.P.Southern Region, Kurnool.
3. Superintendent of Post Offices, Kurnool Division, Kurnool.
4. Post Master, Head Post Office, Kurnool.
5. One copy to Sri. B.S.A.Satyanarayana, advocate, CAT, Hyd.
6. One copy to Sri. K.Ramloo, Addl. CGSC, CAT, Hyd.
7. One copy to Library, CAT, Hyd.
8. One spare copy.

Rsm/-

S. 136

(28)

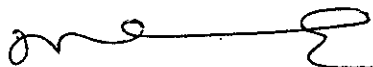
... 4 ...

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.

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.

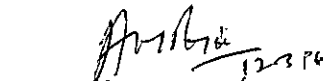
8. The O.A. is ordered accordingly. No costs.

  
( R.RANGARAJAN )  
Member (Admn.)

Dated: 19th February, 1996

( Dictated in Open Court )

sd

  
Dy. Registrar (S)

Contd.

29/3/96  
TYPED BY  
COMPARED BY

OA 11 93/9  
CHECKED BY  
APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
HYDERABAD BENCH HYDERABAD.

*R. D. Gorthi*  
HON'BLE SHRI A.B.GORTHY: MEMBER(A)

HON'BLE SHRI

DATED: 19/2/96

ORDER/JUDGMENT

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

IN

O.A. NO.

11 93/95

ADMITTED AND INTERIM DIRECTIONS ISSUED  
ALLOWED

DISPOSED OF WITH DIRECTIONS

DISMISSED

DISMISSED AS WITHDRAWN

ORDERED/REJECTED

NO ORDER AS TO COSTS

\* \* \*

No Spare Copy

CO.

Pl. Chandra C. P. D. Gorthi

केन्द्रीय प्रशासनिक अधिकरण  
Central Administrative Tribunal

प्रेषण/DESPATCH

18 MAR 1996

हैदराबाद न्यायपीठ  
BENCH