

CENTRAL ADMINISTRATIVE TRIBUNAL,
JABALPUR BENCH

Original Application No. 635 of 2002

Jabalpur, this the 6th day of May, 2005

Hon'ble Shri M.P. Singh, Vice Chairman
Hon'ble Shri Madan Mohan, Judicial Member

1. H.M. Avasthy
S/o Parasnath Avasthy
Ordnance Factory, Katni.
2. Ram Charan Sahu
S/o Vanshu Sahu
Ordnance Factory, Katni.
3. Narayan Das Rao
S/o Late Prem Chand Rao
Ordnance Factory, Katni.

Applicants.

(By advocate Shri Mukesh Mishra)

Versus

1. Union of India through
The General Manager
Ordnance Factory, Katni.
2. The Accounts Officer
Accounts Office
Ordnance Factory, Katni.

Respondents.

(By advocate Shri P. Shankaran)

ORDER

By Madan Mohan, Judicial Member

By filing this OA, the applicants have claimed the following reliefs:

- (i) that recovery proceedings should be stopped and the amount which was recovered from January 2002 should be given back to the applicants.
- (ii) that their incentive bonus should be started continuous till they worked in the E.M. Section.



2. The brief facts of the case are that the applicants are posted as Examiners in the Ordnance Factory, Katni. Before the year of 1998, the applicants were trained by the department for the work of Pyrometric and when there was shortage of trained employees, the applicants were called for the maintenance work. When their work was found satisfactory, the respondents transferred the applicants to the Electric Section/Maintenance and respondents took additional work of electric and electronic maintenance(E.M.). After this, the applicant wrote a letter to the respondents to transfer to their parent section on their original post of Examiners because there was no post of Examiner in the E.M. Section. The applicants were kept on the same work in E.M. Section for maintenance and respondents started the incentive bonus from November 1998. On 18.12.2001, respondent No.2 informed Joint General Manager that the incentive bonus which was given to the applicants was stopped and the incentive bonus which was earlier paid shall be deduced every month from their salary from January 2002. The respondents thereafter started recovery of incentive bonus from their salary amounting to Rs.1000 from January 2002. The applicants made representations in this regard but of no use. Hence this OA is filed.

3. Earlier this petition was dismissed by this Tribunal on the ground that the claim relating to incentive bonus cannot be said to be a subject matter of dispute before the Tribunal. This order was quashed by the Hon'ble High Court in WP(S) 197/2003 by order dated 9th February 2005 and directed this Tribunal to decide this OA on merit.

4. Heard the learned for both parties. It is argued on behalf of the applicants that the applicants have been trained by the respondents for the work of pyrometric and there was shortage of trained employees. Hence the applicants were called for the maintenance work and they were transferred to E.M Section and the respondents



had taken additional work of electric and electronic maintenance. When their work was found satisfactory, the respondents transferred the applicants to the Electric Section/Maintenance and respondents took additional work of electric and electronic maintenance(E.M.). For this work, the respondents started to pay incentive bonus from November 1998 but it was stopped by order dated 18.12.2001 as the applicants were not found entitled for it legally and recovery was also ordered and deduction was started from the applicants' salary at the rate of Rs.1000/- per month from January 2002 onwards. The whole action of the respondents is against rules and law and the representations submitted by the applicants have not been considered by the respondents. The applicants are legally entitled for the reliefs claimed.

5. In reply, the learned counsel for the respondents argued that all the three applicants are Examiners by trade and it is their duty to examine the products accuracy. They do not carry out any sort of maintenance work. The incentive bonus is applicable only to those workers who are deployed on maintenance work. The applicants are not entitled to any incentive bonus by virtue of their nature of duties and the respondents are right in recovering the payments made to them in the form of incentive bonus by mistake. The applicants were deployed only to examine accurate functioning of pyrometric work. The incentive bonus paid to them as applicable to maintenance workers was by mistake. Their deployment of work for which they are employed is the prerogative of the employer to obtain maximum utility of their services and it is not on the wishes of the employees. Hence the action of the respondents is perfectly legal and justified.

6. After hearing the learned counsel for both parties and perusing the records, we find that the arguments advanced on behalf of the respondents that the applicants were ^{deputed to} ~~detailed~~ to perform the task of examining the pyrometric system only and not for maintenance of



electric/electronic devices and therefore, ^{legally} they are not entitled for payment of incentive bonus seem to be ^{legally} tenable and the applicants have not controverted this fact by filing a rejoinder. Rather, the applicants have mentioned this fact in the OA itself that the respondents had taken additional work of electric and electronic maintenance from the applicants. Further the relief at para 9 (a) of the OA has become infructuous now, as argued on behalf of the respondents.

7. Considering all the facts and circumstances of the case, we are of the considered opinion that the OA has no merit. Accordingly, the OA is dismissed. No costs.

(Madan Mohan)
Judicial Member

(M.P. Singh)
Vice Chairman

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पृष्ठंकन सं ओ/न्या.....जबलपुर, दि.....
पत्तिलिपि अर्पित:-

- (1) सचिव, उच्च न्यायालय बार एसोसिएशन, जबलपुर
- (2) आवेदक श्री/श्रीमती/शु.....के काउंसल
- (3) प्रत्यक्षी श्री/श्रीमती/शु.....के काउंसल
- (4) वॉयफाल, के.ए.अ., जबलपुर न्यायाधीश

सूचना एवं आवश्यक कार्यवाही के
उप रजिस्ट्रार

niraj mishra
DN 231

P. Shankaran
DN 231

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16/5/05