

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH ::: GUWAHATI-5.

O.A.No. 169 of 1994.

DATE OF DECISION... 26.11.1997...

Shri Bhupen Chandra Kalita

(PETITIONER(S))

Shri S.Sarma.

ADVOCATE FOR THE
PETITIONER(S)

VERSUS

Union of India & Ors.

RESPONDENT(S)

Shri G.Sarma, Addl.C.G.S.C

ADVOCATE FOR THE
RESPONDENT (S)

THE HON'BLE JUSTICE SHRI D.N.BARUAH, VICE-CHAIRMAN

THE HON'BLE SHRI G.L.SANGLYINE, ADMINISTRATIVE MEMBER

1. Whether Reporters of local papers may be allowed to see the Judgment ?
2. To be referred to the Reporter or not ? *yes*
3. Whether their Lordships wish to see the fair copy of the judgment ?
4. Whether the Judgment is to be circulated to the other Benches ?

Judgment delivered by Hon'ble Administrative Member

[Signature]
26-11-97

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CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Application No.169 of 1994.

Date of Decision : The 26th Day of November, 1997.

Justice Shri D.N.Baruah, Vice-Chairman

Shri G.L.Sanglyine, Administrative Member.

Shri Bhupen Chandra Kalita,
Resident of Fatasil Ambari,
Guwahati-9, at present
working as Manager, Stores,
Telecom Co-operative Society,
Panbazar, Guwahati-1.

. . . Applicant.

By Advocate Shri S.Sarma. . .

- Versus -

1. Union of India, represented by :

(i) The Secretary to the Govt. of India,
Ministry of Communications,
New Delhi and

(ii) The Secretary to the Govt. of India,
Ministry of Personnel, Public Grievances
& Pensions, (Department of Personnel
and Training),
New Delhi.

2. The Chief General Manager,
Assam Telecom Circle,
Guwahati-7.

3. The Chief Superintendent,
Central Telegraph Office,
Guwahati-1.

4. The Assam Circle Post & Telegraph
Co-operative Credit Society Ltd.,
Panbazar, Guwahati-1 represented
by its Chairman (Nominated).

. . . Respondents.

By Advocate Shri G.Sarma, Addl.C.G.S.C.

O R D E R

G.L.SANGLYINE, ADMINISTRATIVE MEMBER,

The applicant was appointed as a Probationer Sales Clerk on 8.4.1975 in the Assam Circle Posts and Telegraphs Co-Operative Credit Society Limited, Guwahati. After successful completion of the probation period he was appointed temporarily in the post with effect from 1.4.1976 in the scale of pay of Rs.210-10-280-15-355/-.

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This Society had 3 sections, namely, (i) Canteen, (ii) Consumer Stores and (iii) Loan and Thrift Section. The applicant had worked in the Canteen Section regularly from July 1980 to August 1993. The Ministry of Personnel, Public Grievances and Pensions, Department of Personnel and Training, Government of India issued an Office Memorandum No.12/5/91-Dir(C) dated 29.1.1992 giving the benefits to the employees of Non Statutory Departmental/Co-Operative Canteens/Tiffin Rooms located in Central Government Offices in the following manner :-

"Consequent upon the said judgment of the Hon'ble Supreme Court, it has been decided that the employees of the Non-Statutory Departmental/Cooperative canteens/Tiffin rooms located in Central Government Offices should be treated as Government Servants w.e.f 1.10.1991. The employees of these canteens may, therefore, be extended all benefits as are available to other Central Government employees of comparable status from 1.10.1991 except GPF, Pension and Group Insurance Scheme in respect of which a separate communication will follow."

The General Meeting of the Cooperative Society, respondent No.4, was held in June 1992 in which it was decided that regularisation of canteen employees is to be done on seniority basis. As a result of this decision the applicant could not be granted the benefits of the aforesaid O.M. On the other hand, other employees who were so long in the Stores and Loan Sections, and inducted in the Canteen section only on 26.6.1992 were allowed to enjoy the benefits of the O.M vide order No.WLF-22/Canteen/GH/92-93/14 dated 10.3.1993 issued by the Chief General Manager, Telecom. Assam Circle, Guwahati. Hence this application.

2. The respondents have justified their action stating that no employee of the Cooperative Society was recruited for any particular section of the Society. In other words

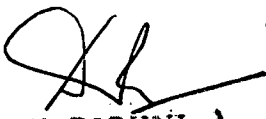
the applicant is not an employee of the Canteen section alone but of the Cooperative Society as a whole. Further, it has been submitted that all employees can be posted by rotation to any of the three sections. It has been pointed out that, in fact, initially the applicant himself was appointed as Sales Clerk in the Stores section. It has further been submitted that the Annual General Meeting of the Cooperative Society is the supreme authority of the Society. The applicant was not given the benefit in compliance to the resolution adopted by the 16th Annual General Meeting of the Cooperative Society held on 21.6.1992. In view of this resolution the applicant is not, according to the respondents, entitled to the benefits conferred by the O.M as he was junior. The applicant has on his part contended that he has been wrongly deprived of his right to be treated at par with the Government employees as contemplated in the O.M dated 29.1.1992 due to the deviation of the respondents from the judgment of the Hon'ble Supreme Court mentioned in the O.M. and from the O.M dated 29.1.1992 itself. It has been contended that the applicant was left out on the ground that he was junior to Babul Ch. Medhi and Anil Ch. Medhi who were accommodated in the order dated 10.3.1993 on the ground, according to the respondents, that they had worked in Canteen section earlier. It is the contention of the applicant that the subsidy for the canteen started in 1980 and these two persons never worked in the subsidised canteen earlier till their induction in the canteen section on 26.6.1992.


3. We have heard counsel of both sides and considered their submissions. There cannot be any dispute that the applicant was first appointed as Sales Clerk Stores (Probationer) and was later on regularly appointed in the post.

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There is also no dispute that the applicant had worked in the canteen of the Cooperative Society from July 1980 till August 1993 on his being posted to the Stores section. The order dated 10.3.1993 aforesaid has made applicable the benefits conferred by the O.M dated 29.1.1992 to the employee attached to the canteen section only. Therefore, there is no controversy with regards to the employees of the Cooperative Society attached to other sections. In the canteen section also the controversy arose only in the case of Canteen Clerk. Three clerks were given the benefits. The applicant was left out on the ground as mentioned herein above. The Office Memorandum dated 29.1.1992 applies to the employees of the canteens only as mentioned therein. The canteen of the Cooperative Society in question is one of such canteens. The applicant was an employee under the Canteen of respondent No.4 as on 1.10.1991 and also as on 29.1.1992 and 10.3.1993. Under the facts and circumstances we are of the view that the applicant is a canteen employee as on 1.10.1991 and therefore he is entitled to the benefits of the O.M dated 29.1.1992 with effect from 1.10.1991. He cannot be denied of the benefits conferred by the O.M by means of a resolution adopted by ~~adopted by~~ the Annual General Meeting of respondent No.4 on a date subsequent to 1.10.1991 and 29.1.1992. In the light of these findings we direct the respondents to allow the benefits mentioned in the O.M.No.12/5/91-Dir(C) dated 29.1.1992 to the applicant with effect from 1.10.1991. We further direct that the above order shall be complied with by the respondents within 3 months from the date of receipt copy of this order.

Application is allowed. No order as to costs.


(D.N. BARUAH)
VICE CHAIRMAN


(G.L. SANGLYINE)
ADMINISTRATIVE MEMBER