

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH: HYDERABAD**

Original Application No.1154 of 2013

Date of Order: 22.03.2019

Between:

1. Southern Region Military Engineering Service
Employees Union, Visakhapatnam Branch,
Rep. by its Assistant General Secretary,
K. Mohan Raju, aged about 50 years,
O/o. MES Qtrs-P-109/2, 104 Area, Visakhapatnam – 07.
2. N. Balarama Murthy, S/o. N. Kanakraju,
Aged about 56 years, Occ: Ref/Mechanic,
O/o. MES Qtrs-P-109/2, 104 Area,
Visakhapatnam.

... Applicants

And

1. Union of India represented by its Secretary,
Ministry of Defence, South Block,
Post DHQ, New Delhi – 530 004.
2. The Engineer in Chief,
Rajaji Marg, Kashmir House,
Post Army Head Quarters, DHQ, New Delhi.
3. The Chief Engineer,
Military Engineering Services,
Station Road, Waltair, Visakhapatnam.
4. The Commander,
Headquarters, Commander Work Engineer,
Visakhapatnam.

... Respondents

Counsel for the Applicants ... Mr. B. Pavan Kumar, Advocate
For Dr. A. Raghu Kumar

Counsel for the Respondents ... Mr. M. Brahma Reddy, Sr. PC for CG

CORAM:

Hon'ble Mr. Justice L Narasimha Reddy, Chairman
Hon'ble Mr. B.V. Sudhakar, Member (Admn.)

ORAL ORDER
{As per Hon'ble Mr. Justice L Narasimha Reddy, Chairman}

The 1st applicant is Employees Union, Southern Region Military Engineering Service and the 2nd applicant is said to be its member. They have been making efforts to get sanctioned the Productivity Linked Bonus (PLB) to its members. On earlier occasion, they approached this Tribunal by filing OA No. 924/2012 alleging that the representation made by them was not disposed of. Through order dt. 17.9.2012, the said OA was disposed of directing the respondents to pass a reasoned order. In compliance with the same, the respondents passed an order dt. 24.11.2012 stating that PLB cannot be extended to the employees working in the Military Engineer Services (MES) organization. The same is challenged in this OA.

2. The applicants contend that in several organizations which are part of the Ministry of Defence, PLB is being paid and the employees of MES are discriminated in this behalf. Reference is made to the manner in which the benefit of bonus was extended to different organizations such as Naval Dockyard.

3. The respondents filed a counter affidavit opposing the OA. They state that activities in the MES cannot be compared to other industrial and commercial organizations which are part of the Ministry. According to them, no activity undertaken by the MES attracts the provisions of Payment of Bonus Act.

4. Heard Mr. B. Pavan Kumar, Advocate, For Dr. A. Raghu Kumar, learned counsel for the applicants and Mr. M. Brahma Reddy, Sr. PC for CG for the respondents.

5. This is not a case in which the employer is already under the purview of the Payment of Bonus Act and the dispute is about payment or rate of bonus. Even according to the applicants, no employee of the MES is being paid the PLB. The respondents have already issued proceedings dated 28.09.1983 enclosing a list of units which are covered by the Payment of Bonus Act. Though an attempt is made to draw comparison between several organizations such as Naval Dockyard, Naval Armament Depot, Base Maintenance Workshops, the basic obligation of any employer to pay bonus needs to be decided by an authority constituted under the Payment of Bonus Act. It is only thereafter that the liability would ensue. We cannot undertake such an adjudication for the first time, in this OA.

6. The applicants can approach the authority under the Payment of Bonus Act. Needless to mention that the respondents shall be entitled to raise all the contentions before the concerned authority as and when any such issue is raised.

7. We therefore, dispose of the OA leaving it open to the applicants to approach the concerned authority under the Payment of Bonus Act. In case any such application is made before the concerned authority, it shall be open to the respondents to put forth all the contentions including the one, raised in this OA. There shall be no order as to costs.

(B.V. SUDHAKAR)
MEMBER (ADMN.)

(JUSTICE L. NARASIMHA REDDY)
CHAIRMAN

(Dictated in open court)
Dated, the 22nd day of March, 2019

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