

THE HON'BLE SRI JUSTICE V. RAMASUBRAMANIAN

AND

THE HON'BLE SRI JUSTICE G. SHYAM PRASAD

WRIT PETITION No.19941 OF 2002

ORDER: (Per Hon'ble Sri Justice V. Ramasubramanian)

Aggrieved by the order of the Central Administrative Tribunal, Hyderabad (for short, 'the Tribunal'), directing the grant of bonus to the casual labourers with temporary status, on par with regular Group-D employees, the Department of Posts has come up with the present writ petition.

Heard Mrs. S. Siva Kumari, learned standing counsel appearing for the petitioners, and Mr. M. Bhaskar, learned counsel for the respondents.

The respondents herein, who were originally engaged as casual labourers and who were later conferred with temporary status, filed an Application in O.A. No.1435 of 2000, before the Tribunal, challenging the proceedings dated 27.09.2000, by which they were directed to be granted bonus on par with casual workers and not on par with regular Group-D employees. The Tribunal allowed the Application and held that the respondents are entitled to bonus on par with regular Group-D employees. Aggrieved by the said order, the Department of Posts is before us.

The Tribunal allowed the claim of the respondents primarily on two grounds; namely 1) that as per the decision of the Supreme Court in ***Jagrit Mazdoor Union Vs. Mahanagar Telephone Nigam Limited***¹, the respondents are entitled to bonus on par with Group-D employees, and 2) that as per the proceedings dated 30.11.1992, the department already directed the grant of such a benefit. But it is seen from the decision of the

¹ 1989 SCR Suppl (2) 329

Supreme Court in ***Jagrit Mazdoor Union***¹, that the Supreme Court was concerned in that case with several items of claim made by the casual labourers conferred with temporary status. While dealing with each one of the items of the claim, the Supreme Court gave an opinion, independently. Insofar as the claim for bonus was concerned, the Supreme Court observed in the penultimate paragraph of its judgment as follows:

“It has been agreed before us that the claim of bonus may be left to arbitration or for being dealt with by the Consultative Council.”

Therefore, the Tribunal could not have relied upon the judgment of the Supreme Court to allow the claim.

Insofar as the 2nd reason given by the Tribunal is concerned, the same revolves around the proceedings of the Assistant Director General of Posts, dated 30.11.1992. In the said Circular, the department itself understood the judgment of the Supreme Court to mean payment of bonus. But realizing the mistake, the department appears to have issued the proceedings dated 27.09.2000. In paragraph 5(II) of the proceedings dated 27.09.2000, the department clarified that the casual labourers with temporary status will be eligible for bonus only on par with bonus applicable to casual labourers and not on par with regular Group-D employees. Therefore, the proceedings dated 30.11.1992 would not advance the cause of the respondents. Hence, the writ petition is allowed. The order of the Tribunal is set-aside.

However, it is made clear that any payment already made shall not be recovered from the respondents, as a long period of time has elapsed, and also in view of the fact that there was no clarity until the proceedings issued on 27.09.2000.

As a sequel, miscellaneous petitions, if any, pending in this writ petition shall stand closed as infructuous. No order as to costs.

V. RAMASUBRAMANIAN, J

G. SHYAM PRASAD, J

Date: 21-12-2016.
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(Order of the Division Bench delivered by
Hon'ble Sri Justice V. Ramasubramanian)

Date. 21-12-2016

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