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W.P.No.3865 of 2013

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 28.06.2023

CORAM :

THE HONOURABLE MR.JUSTICE V. LAKSHMINARAYANAN

Writ Petition No.3865 of 2013 and M.P.No.2 of 2013

- 1.H.Danesh
- 2.P.Pakkiriswamy
- 3.C.Ramanan
- 4.P.Arun Ravi
- 5.N.Ashok Kumar
- 6.A.Mahendran
- 7.K.Madanagopal
- 8.M.Balamurugan
- 9.G.Venkatesalu
- 10.T.Krishnamurthy
- 11.D.Ramesh
- 12.M.Shankar Shah
- 13.K.Selvaraj

.... Petitioners

-Vs-

- 1.The Presiding Officer
Central Government Industrial Tribunal
Cum Labour Court, 1st Floor 'B' Wing
No.26, Haddows Road, Shastri Bhavan
Chennai – 600 006.

- 2.Director General
Prasar Bharathi Broadcasting
Corporation of India, Doordarshan
Mandi House, New Delhi.

- 3.The Director
Prasar Bharathi Broadcasting
Corporation of India, Doordarshan Kendra
Swami Sivananda Salai
Chennai – 600 005.

.... Respondents



W.P.No.3865 of 2013

Prayer : Writ Petition under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus calling for the records relating to the Award dated 30.06.2011 passed by the 1st respondent Central Government Industrial Tribunal Cum Labour Court, Chennai in I.D.No.34 of 2011 and to quash the same and consequently to grant adhoc basis from 1999-2000 onwards on the basis of the Office Memorandum issued by the Government of India issued from time to time and accordingly substitute the same.

For Petitioner : Mr.N.G.R.Prasad
for M/s.Row and Reddy

For Respondents : R1 – Tribunal

Mr.J.Madanagopal Rao
Standing Counsel for Central Government
-for RR 2 and 3

ORDER

This writ petition challenges the award of the Central Government Industrial Tribunal (CGIT) in I.D.No.34 of 2011. The status of the petitioners, at the time of raising the dispute was that of casual employees. The dispute that was referred to the Industrial Tribunal was as follows:

" Whether the action of the management of Prasar Bharati, Broadcasting Corporation of India, Doordarshan Kendra in not paying Ad-hoc Bonus to Shri H.Danesh and 12 others (as per Annexure) from the financial year 1999-2000 onwards is legal and justified? If not, since when and what relief the workmen are entitled to?"



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2. Mr.N.G.R.Prasad, learned counsel for the petitioners would point out that the petitioners subsequently raised a dispute in I.D.No.9 of 2010. An award was passed on 15.06.2010 regularising them in service. It cannot be disputed by Mr.J.Madanagopal Rao, learned Standing Counsel appearing for the respondent Prasar Bharati that the petitioners were regularised in service from 28.03.1998.

3. Therefore, the subsequent development which Mr.N.G.R.Prasad wants me to take note of would make it clear that the issue that I have to decide is whether, in the year 1999 the petitioners are entitled to adhoc bonus. The reason being, once they are regularised, the issue of adhoc bonus does not arise at all and they are entitled to regular bonus that is granted by the Government.

4. The CGIT had held that the circular that had been issued, does not apply to those working in shifts. I have gone through the circular, which has been enclosed in the typed set of papers and marked as W7. As per the Office Memorandum (O.M) dated 08.10.1999, there is no exclusion to shift employees. Therefore, the findings of the CGIT that shift employees are excluded from Office Memorandum is a perverse finding.

5. The second requirement is that the casual labour must have worked in



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institutions observing five working days a week and should have put in 206 days of service in each year for three years or more. A tabular column has been produced by the learned Standing Counsel for the Central Government. A perusal of the tabular column shows that the respondents admitted that Mr.C.Ramanan, Mr.M.Balamurugan and Mr.T.Krishnamurthy have completed the required 206 days service. Therefore, applying the Office Memorandum, the petitioner Nos.3,8 and 10 are entitled to the benefit because, for the period 1996, 1997 and 1998, they have worked for more than 206 days. Insofar as the petitioner Nos.1,2,4,5,6,7,11 and 13 are concerned, they fall short of the required number of days and therefore, applying the Office Memorandum, they are not entitled to adhoc bonus for the year 1999.

6. Therefore, I interfere with the order of the CGIT, which dismissed the industrial dispute in entirety holding that none of the petitioners are entitled to any benefit. As seen above, those who have put in 206 days of service are entitled by virtue of the Office Memorandum issued under W7.

7. Mr.N.G.R.Prasad would vehemently contend that for persons, though were regularised subsequently with effect from 28.03.1998, I should give a direction that they will not be entitled to the difference of the bonuses and I should avoid another round of litigation. I am not convinced with the said



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submission for the reason that, CGIT could not have exceeded its jurisdiction and could have drawn inference only for the reference made by the Central Government under the Industrial Disputes Act and this issue not having been made as reference made by before the CGIT, and could not have been gone through by it, sitting in Article 226, I also cannot go into the same.

8. Insofar as their claim for regular bonus commencing from 28.03.1998, in case it has not been paid to them, they are entitled to approach the appropriate forum for the purpose of obtaining relief. The award of the CGIT is quashed insofar as the petitioner Nos.3, 8 and 10 are concerned. Since they have put in the required service, they shall be entitled to the bonus as per the Office Memorandum for the year 1999. The exercise of calculating the adhoc bonus to the petitioner Nos.3, 8 and 10 shall be completed within a period of twelve (12) weeks from the date of receipt of a copy of this order. For the remaining petitioners, the writ petition stands dismissed. As pointed out above, they are at liberty to approach the appropriate forum to redress their grievance insofar as the bonus from 28.03.1998.

9. With the above directions, this writ petition is partly allowed. No costs.



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Consequently, connected miscellaneous petition is closed.

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Index : Yes/No

Neutral Citation : Yes/No

Speaking Order / Non-speaking order

KST

To

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V. LAKSHMINARAYANAN, J.

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