



Central Administrative Tribunal  
Principal Bench, New Delhi

**OA No.4150/2016**

Reserved on: 04.02.2020  
Pronounced on: 06.02.2020

**Hon'ble Ms. Aradhana Johri, Member (A)**

1. Sombir, Aged 27 years  
S/o Sh. Ram Chander  
Working as Gateman,  
Under SSE, Northern Railway, Gohana.  
R/o H.No.352, Ward No.22, Ghandhi Nagar,  
Gohana, Distt. Sonapat (Har.)
2. Bhupender, Aged 25 years,  
s/o Sh. Jai Bhagwan,  
Working as Gateman,  
Under SSE, Northern Railway, Gohana.  
R/o Vill.&PO Ghilod Kalan,  
Distt. Rohtak (Har.)
3. Samsheer, Aged 29 years,  
s/o Sh. Mahander,  
Working as Gateman,  
Under SSE, Northern Railway, Gohana.  
R/o Vill. & PO Rukhi, Teh.Gohana  
Distt. Sonapat (Har.)
4. Ravinder Kumar, Aged 27 years,  
S/o Sh. Subha Chand,  
Working as Gateman,  
Under SSE, Northern Railway, Gohana.  
R/o Vill.&PO Ghilod Kalan,  
Distt. Rohtak (Har.)
5. Ravinder, Aged 28 years  
S/o Sh. Jagdish Singh,  
Working as Gateman,  
Under SSE, Northern Railway, Gohana.  
R/o Vill.&PO Rithal Narwal,  
Distt. Rohtak (Har.)
6. Jasvir, aged 26 years,  
S/o Sh. Narender Singh  
Working as Gateman,  
R/o Vill & PO Sanghi,  
Distt. Rohtak (Har.)

7. Krishan Kumar, Aged 20 years,  
S/o Sh. Ram Kumar,  
Working as Gateman,  
Under SSE, Northern Railway, Gohana.

8. Vikram s/o Sh. Karambir  
Working as Gate No.18,  
R/o Vill. Ghilod Kalan,  
Distt. Rohtak (Har.)

...Applicants

(By Advocate: Sh. Yogesh Sharma)

Versus

1. Union of India through  
The General Manager,  
Northern Railway, Baroda House,  
New Delhi.
2. The Divisional Railway Manager,  
Northern Railway, Delhi Division,  
State Entry Road, New Delhi.
3. The Divisional Engineer,  
Northern Railway, DRM's office,  
State Entry Road, New Delhi.
4. The Assistant Divisional Engineer,  
Northern Railway,  
Rohtak (Hr.).

...Respondents

(By Advocate: Sh. Shailendra Tiwary)

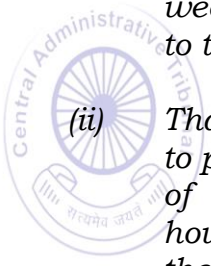
### **O R D E R**

The applicants (eight in number) are Gatemen working under respondent no.4. They have filed this OA jointly and have also prayed for joining of parties by filing MA No.3733/2016, which has already been allowed vide order dated 29.05.2019.

2. The applicants have prayed for the following reliefs:-

- “(i) That the Hon’ble Tribunal may graciously be pleased to pass an order declaring to the effect that the action of the respondents preparing 12 hours per day/75 hours weekly roster for the applicants is illegal, arbitrary, against the rules and consequently pass an order directing the

*respondents to prepare 8 hours per day/48 hours weekly roster for the applicants who are working to the post of Gateman.*



*(ii) That Hon'ble Tribunal may graciously be pleased to pass an order directing the respondents to grant of over time allowances to the applicants for 4 hours over time daily from the date of posting of the applicants on these gates with all the consequential benefits including the arrear of over time allowances with interest.*

*(iii) Any other relief which the Hon'ble Tribunal deem fit and proper may also be granted to the applicants along with the costs of litigation."*

3. It is the contention of the applicants that their services are categorized as 'essential intermittent' whereas they claim that they come under the category of 'Continuous Service' and therefore, should have 8 hours per day working roster instead of 12 hours working roster. They have also stated that they have not been provided residential accommodation within the prescribed distance of 500 meter from the place of their duty. They contend that if more work is taken from them then they should be given over time allowance.

4. The respondents have denied the claims of the applicants and have stated that as per rules the applicants have been categorized as 'Essential Intermittent'. They have further stated that in case the applicants were aggrieved by this categorization, they should have complained to the Regional Labour Commissioner as provided under Rule 4 of the Railway Servants (Hours of

work and Period of Rest) Rules, 2005, which they have not done.

5. The respondents have not admitted the claims of the applicants that they have not been given accommodation within 500 meters from the place of their duty. However, there is some confusion in the reply regarding details of the applicants who have been given residential accommodation and those who have not been given.

6. Heard Sh. Yogesh Sharma, learned counsel for the applicants and Sh. Shailendra Tiwary, learned counsel for the respondents. Both sides have filed rulings in support of their respective contentions.

7. The applicants have cited orders passed by this Tribunal in ***Hari Ram & Others Vs. Union of India & Ors.*** [OA No.643/2015 decided on 29.08.2017]. In the said OA, the Tribunal had held that Gatemen perform 'Continuous' and not 'Essentially Intermittent' duty and are thus entitled for OTA for extra hours of work beyond 8 hours per day. This order of the Tribunal was upheld by the Hon'ble High Court of Delhi in WP(C) No.8408/2018 [Union of India & Ors. vs. Balwan Singh & Ors.] and WP(C) No.8628/2018 [Union of India & Ors. vs. Hari Ram & Ors.] decided by a common order dated 20.03.2019.

8. The respondents have stated that against the Tribunal's order in ***Hari Ram's*** case (supra) a Review Petition has been filed before the Hon'ble High Court of Delhi. They have also stated that this Tribunal in ***Hari Ram's*** case (supra) did not consider the rule position by which the factum of having accommodation within 500 meters disentitles them from any over time allowance.

9. The applicants have also cited the decision of this Tribunal in case of ***Prem Singh & Ors. V/s Union of India & Ors.*** [OA No.4516/2013 decided on 18.03.2015] wherein the respondents were directed to prepare eight hours per day/40 hours weekly roster for the applicants who were 'A' Class Gatemen. The respondents have submitted that the decision of this Tribunal in ***Prem Singh's*** case (supra) is clearly distinguishable as the same pertains to 'A' class Gatemen only.

10. The respondents have cited the orders of this Tribunal in ***Sunil & Others V/s Union of India & Ors.*** [OA No.1433/2018 decided on 13.09.2019] and in ***Narender Kumar & Ors. V/s Union of India & Ors.*** [OA No.4301/2018 decided on 22.10.2019].

11. In ***Sunil's*** case (supra), this Tribunal held that those of the applicants who had been provided railway quarter within the prescribed distance of 500 meters from their

place of duty were allowed overtime allowances and those who had quarters beyond the prescribed distance of 500 meters from the Gate, were permitted to submit their representation individually giving the details of their residence and place of duty after which the respondents would consider the same and pass a reasoned and speaking order keeping in view the rule position and instructions on the subject.

12. First of all, for the sake of clarity, it is necessary to go through Clauses 3 & 4 of Rule 8 of the Rules *ibid*, which reads as under:-

“(3) The standard hours of duty for different classes of employment of Railway servants shall be as under : -

- (a) Intensive 42 hours a week;
- (b) Continuous 48 hours a week; and
- (c) **Essentially Intermittent 48 hours a week;**

(4) (a) Railway servants having essentially intermittent class of employment shall be called upon to work as per rule 8(2)(ii) additional hours as indicated below :

- (i) Gatemen 'C' Caretakers of Rest Houses and Reservoirs, etc., Chowkidars and Saloon Attendants
  - (ii) Railway servants posted to work in Essentially Intermittent employment at road-side stations and provided with residential quarters with 0.5 Kms. from their place of duty.
- 24 additional hours per week**

From a perusal of the above, it is clear that the reasoning behind the rule is that where the traffic load is not very heavy and the employee has been provided residential quarter within 500 meters from the place of duty, it is possible for the employee to be at home and go for gate

duty only as and when required. Therefore, the conditionality of provision of residential quarter within 500 meters from the gate becomes very critical in this matter.

13. Having discussed the facts and circumstances of the case, it is held that in ***Hari Ram's*** case (supra) the conditionality of provision of residential quarter within 500 meters from the place of duty was not taken into account in the decision taken. As discussed above, this was a very essential conditionality which has been pointed out at length in the current OA. Further, the decision of this Tribunal in ***Prem Singh's*** case (supra) pertains to 'A' Class Gateman whereas none of the present applicants claim to be 'A' Class Gatemen therefore, this decision is distinguished from the present case.

14. Having discussed all the circumstances of the case and rulings relied upon by both the parties, I am of the view that ***Sunil's*** case (supra) and ***Narender Kumar's*** case (supra) are applicable in the current matter since they are identical and have taken into account all essential elements provided in the Rules.

15. Hence, this OA is disposed of accordingly. The applicants are permitted to give their representation individually clearly indicating the category of Gateman to which they belong, their place of posting as well as the

status of residential accommodation provided to them within 30 days from the date of receipt of a certified copy of this order. Thereafter the respondents shall consider the same and pass a reasoned and speaking order keeping in view the position of rules and law as well as instructions on the subject, within a period of 90 days from the date of receipt of such representations from the applicants.

16. There shall be no order as to costs.

**(Aradhana Johri)**  
**Member (A)**

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