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CENTRAL ADMINISTRATIVE TRIBUNAL: PRINCIPAL BENCH

Original Application No.3285 of 2001

New Delhi, this the 26th day of March, 2004

HON'BLE MR.KULDIP SINGH, MEMBER(JUDL)

- 1.. Pale Ram
S/o Shri Ranjit
- 2.. Shri Sita Ram
S/o Shri Maman
- 3.. Shri Om Prakash
S/o Manfool
- 4.. Shri Ram Palt
S/o Shri Kalpu
- 5.. Shri Ramjubari
S/o Shri Ran Singh
- 6.. Shri Satbir Singh
S/o Shri Jeet Singh
- 7.. Hukamchand
S/o Shri Baldeva
- 8.. Lacchman
S/o Shri Purn
- 9.. Shri Ram Chander
S/o Shri Ram Sarup

-APPLICANTS

(By Advocate: Shri B.S. Mainee)

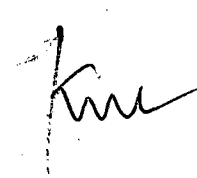
Versus

Union of India & Others: Through

- 1.. General Manager,
Northern Railway,
Baroda House,
New Delhi.
- 2.. Divisional Railway Manager,
Northern Railway,
State Entry Road,
New Delhi.
- 3.. Station Master,
Khukrana,
District Panipat,
Haryana.
- 4.. Traffic Inspector,
Northern Railway,
Panipat.

...Respondents

(By Advocate: Shri Rajeev Bansal)



O R D E R (ORAL)

By Hon'ble Mr. Kuldip Singh, Member (Judl)

This is a joint application filed by 9 applicants who had been working as Points Men/Shunt Men/Cabin Men at Khukrana Railway Station. They have a common grievance that they had been forced to perform 12 hours duty every day. Although in accordance with the rules they were supposed to perform 8 hours duty but the respondents are stated to be illegally denying the overtime allowance for which the applicants are entitled so in this OA the applicants claim the following reliefs:-

(i) To get 8 hours work from the applicants everyday as per Station Working Rules.

(ii) To direct the respondent to pay overtime allowance for the extra hours of duty which has been performed by the applicants for which they have preferred the overtime claims and which were directed by the Station Master to be preserved till the final decision.

2. Facts in brief are that the applicants were working under the Delhi Division in the capacity of Points Man/Cabin Man/Shunt Man at a new station by the name of Khukrana which was opened in the year 1994 on branch line from Panipat to Jind. It is stated that when a new station is opened, Station Working Rules are issued by the respondents and in this case the same were issued as per Annexure A-1. This Annexure A-1 lays down the number of training staff in each shift and according to

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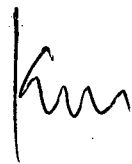
which six Cabin Men were required to be posted and two were supposed to work in each 8 hours shift and similar was the case with Shunt Man and Points Man, one each in 8 hour shift.

3. This Station Working Rules had been reviewed every three years but no change was recommended.

4. It is further stated that due to shortage of staff, the staff deployed at Khukarana Station who are working from the very beginning, i.e. since 1994 were put to work on 12 hours duty and they claimed overtime allowance for 4 hours per day which was duly paid to the following three persons:-

- (i) Shri Sitaram - Cabin Man
- (ii) Shri Om Prakash - Cabin Man
- (iii) Shri Lachhman - Shunt Man

5. However, the remaining applicants were posted in the year 1995 and they were also required to work for 8 hours in stead of 12 hours so they also claimed overtime allowance. Their overtime vouchers were submitted to respondent No.3 who returned the same on the ground that the matter was under consideration in consultation with respondent No.2 and these should be submitted as soon as the matter is decided. The applicants continued to submit overtime claim but every



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time the Station Master returned them to the applicants asking them to preserve the same till the final decision is taken..

6.. Then the Station Master Khukrana was transferred on promotion and new Station Master came and the applicants submitted a representation to the new incumbent and requested him to arrange to have the earlier overtime claims paid but the new Station Master also returned and stated that their request for 8 hours duty will be considered when adequate staff is provided and earlier claim lies to be paid by the earlier incumbent and he had also stated that "eversince I have taken over the charge, nobody has put the claim for overtime" so after these observations were made by the Station Master, the applicants submitted their overtime claims to him and those overtime claims were forwarded to the Traffic Inspector, Panipat. The applicants then made a representation to the Divisional Operating Manager, New Delhi. In the representation it was also requested that proper physical job analysis should be done and they should be asked to work for 8 hours only. Thereafter the applicants submitted a representation to the General Manager, Northern Railway, Baroda House, New Delhi which was forwarded to the Station Master.

7.. It is further stated that after all these representations, the overtime slips were taken by respondent No.3 and were forwarded to the Divisional Personnel Officer, Northern Railway vide their letter dated 18.10.2000, vide Annexure A-12 and again representations were submitted by the applicants vide

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Annexure A-13 collectively because neither the overtime allowance has been paid to the applicants nor any reply has been given.

8. The applicants further submit that they are 'continuous' workers in terms of Hours of Employment Regulations (HOER) and in accordance with these rules a 'continuous' worker is required to perform 8 hours duty per day and in case he is required to perform more than 8 hours duty, overtime allowance is to be paid.

9. Those workers whose classification has been degraded to essentially intermittent after proper physical job analysis by the proper authority, then only the staff is bound to perform 12 hours duty but in the case of the applicants neither any physical job analysis has been done till date nor their classification has been changed from 'continuous' to 'essentially intermittent'. Thus the respondents have no power to force the applicants to perform 12 hours duty and also not to pay the overtime allowance.

10. Respondents are contesting the OA. Respondents in their reply pleaded the applicants were classified in E-1 classification and they were required to perform 12 hours duty as per (HOER). It is denied that the applicants are required to perform 8 hours duty.

11. It is further stated that the Factual Job Analysis of the staff has been conducted from 19.3.2002 to 22.3.2002 for continuous period of 72 hours. An action period came to 25 hours whereas the period of

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non-action came to 47 hours as such the action period on average day per day came to 8.2 hours as such the action period on average per day during Factual Job Analysis came to less than statutory limit of 50% and hence E-I Classification of the applicants is justified.

12. It is further stated that the factual job analysis report has been submitted to the competent authority for approval who is presently seized of the matter.

13. It is further stated that since the staff has been classified in E-I classification so they are required to perform 12 hours duty as per HOER and the same is done in the case of the applicants so the OA has no merits and the same has to be dismissed.

14. We have heard the learned counsel for the parties and gone through the records of the case.

15. The learned counsel for the applicants submitted that when this station was opened in the year 1994, the Station Working Rules were issued on 27.1.1994 in which the duty of Cabin Man has been shown as 8 hours. This Station Working Rules are reviewed after every 3 years and in 1997 it was reviewed but the same was confirmed and no change was required to be made as per Annexure A-2. On the next review in the year 2000 the same was repeated and no change was required as reported as per Annexure A-3. Similarly as per Annexure A-4, 8 hours duty has been prescribed for all these category of persons while designation of Cabin Man has been omitted.

Though factual job analysis has been carried out but no order has been passed whether the workers are to be classified as E-I category. Thus the applicants counsel submitted that these documents of the Railways which are known as Station Working Rules itself prescribe 8 hours duty so the respondents cannot force the applicants to work for 12 hours unless the factual job analysis has been completed and orders had been passed on the same.

16. On the contrary the learned counsel for the respondents submitted that as per HOER and S.No.3545 of paragraph 23 prescribe that a procedure has to be observed for classifying staff provisionally pending, a final sanction of the competent authority whenever new posts are created. It is stated that in case where no posts previously existed at a particular station, the staff should be classified on the basis of classification of similar posts at the adjoining any other station on the section where conditions of work are similar. On the strength of this the learned counsel for the respondents submitted that since on the joining the staff of such type has been categorised as E-I who are supposed to have rendered 12 hours duty so the applicants are supposed to render 12 hours duty.

17. In my view the respondents cannot invoke the provisions of S.No.3545 for classifying the applicants as E-I category of employees because in the Station Working Rules which have been periodically confirmed upto 2000 go to show that the same has been issued after undertaking the study periodically after every three years and in that the respondents themselves have prescribed the duty

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hours of such type of employees as Points Man for 8 hours duty only. Till a proper notification is issued under HOER for declaring these employees as E-I category, the respondents cannot force them to work for 12 hours and the Station Working Rules for new station which have been issued from time to time and confirmed every three years shall govern the working condition of the staff which prescribe only 8 hours duty for the staff.

18. The learned counsel for the respondents agreed that factual job analysis has been conducted as it has been pleaded in the written statement also but what is the result of the said job analysis for the working staff and whether the same has been approved by the competent authority or not, the counsel for the respondents was unable to throw any light on the same. No document has been placed to show that the staff like the applicants category has been declared as E-I category under any notification issued under HOER declaring E-I as classified category, as such the respondents cannot force them to work beyond 8 hours without payment of overtime allowance as the same would be against the station working rules. Thus the OA deserves to be allowed.

19. Hence the OA is allowed with the following directions:-

(i) That till such time any order based on the factual job analysis is issued, the respondents cannot compel the applicants to work for more than 8 hours without payment of overtime allowance.

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(ii) Respondents are further directed to pay overtime allowance for the extra duty which has been performed by the applicants for which they had also preferred claim. The same should be done within a period of 3 months from the date of receipt of a copy of this order. No costs.



(KULDIP SINGH)
MEMBER(JUDL)

/Rakesh