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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

OA 2495/99
MA 2510/99

New Delhi this the 22nd day of March, 2000

Hon'ble Smt. Lakshmi Swaminathan, Member (J)

1. Miss S. Topno ~~Marson~~ son of Sh. John Topno.
2. Smt. A. Nayar w/o Sh. G. S. Nayar.
3. Smt. Sunita A. Singh d/o Sh. Ashok Singh.
4. Miss B. V. Gadge d/o Sri Vishwaji Gadge
5. Miss Seema Maseeh d/o Mr. Julius Masih.
6. Smt. Alka Frankun w/o Mr. Frankun.
7. Smt. Promila Singh w/o Sh. Kristofer.
8. Sh. M. L. Gupta s/o Sh. T. M. Gupta.
9. Lakhan Singh s/o Sh. Sabha Chand.
10. Ramji Lal s/o Khachera.
11. Vivek Bhatnagar s/o Jagmohan Bhatnagar.
12. M. P. Sharma s/o Sh. Laxmi Naryan Sharma.
13. Gurmeet Singh s/o Sh. Tara Singh.
14. Parshadi Lal s/o Laxhi Ram.
15. Smt. Lilly Bates w/o K. C. Babu.
16. Smt. Lilly Joseph w/o Sh. P. V. Joseph.
17. Smt. R. J. Nath. w/o Sh. Joyce-J-Nath.
18. Sh. R. D. Sharma s/o Sh. Hoti Lal Sharma.
19. Sumer Singh s/o Hukam Singh.
20. Chaman Lal s/o Sh. Chhotu Ram.
21. Rati Pal s/o late Sunehri Ram.

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ccnd...

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22. Sh. Sahab Singh s/o Gaje Singh.
 23. Sh. Manoj Kumar s/o Sh. Murari Lal.
 24. Sh. Hari Ram s/o late Sh. Chhaju Singh.
 25. Sh. Sohan Lal s/o late Chronji Lal.
 26. Kirpal Singh s/o Sh. Kishan Lal.
 27. Raj Kumar s/o Ch. Chidan
 28. Naresh Kumar son of Sh. Sohan Lal.
 29. Harish Chand Kasri son of Sh. Pabaru
 30. Smt. Susheela Devi w/o Shivcharan Sharma.
 31. Smt. Kamlesh wife of ~~late~~ Sh. Doji Ram.
 32. Smt. Radha Rani w/o Sh. Bijendra Kumar.
 33. Smt. Amrit Devi w/o Sh. Mool Chand.
 34. Smt. Kamlesh Rani w/o late Sh. Wazir Chand.
 35. Sh. Subal Biswas w/o late Sh. D. R. Biswas.
 36. Sh. Moti Lal s/o late Sh. Shankar Lal.
 37. Smt. Gpatri Devi w/o Sh. Balbir Singh.
 38. Sh. Suresh Pal s/o late Harbans Singh.
 39. Ganpat s/o Sh. Shivnath Singh.
 40. Smt. Shakuntla Devi w/o late Sh. Data Ram

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41. Vinod Kumar s/o Sh. ~~Lat~~ R Madho Ram.
 42. Ravindra Singh s/o Sh. Jai Pal Singh.
 43. Khem Chand s/o late Vansi.
 44. Raj Kumar s/o late Sh. Satbir.
 45. Baleshwar s/o late Banwari.
 46. Jagdish s/o late Babu Ram.
 47. Smt. A Varghese w/o Sh. M. C. Varghese.
 48. Sh. Mohan Lal s/o late Sh. Harbans
 49. Ram Pal s/o Shri Fakira.
 50. Som Pal s/o late Shiv Sahai,
 51. Smt. Chandro Devi w/o late Payara Lai.
 52. Smt. Omkari w/o Jai Singh.
 53. Smt. Shanti Devi w/o late Sh. Banvari Lal.
 54. Sh. Ashok Kumar s/o Sh. Tara Chand.
 55. T. D. Joshi. s on of late Sh. M. D. Joshi.
 56. Sh. Subhash Chandra s/o late Sh. Nek Ram.

all are working as Para Medical staff in the
Ordinance Factory Murad Nagar, Hospital and
are residents of Muradnagar, Distt. Ghaziabad.

..Applicants.

(None for the applicants)

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Versus

1. Union of India, through Secretary,
Ministry of Defence, Govt. of India,
New Delhi.
2. Director General
Ordinance Factories Board,
10 A Auckland Road, Calcutta.
3. The General Manager,
Ordinance Factory,
Muradnagar, Distt. Ghaziabad.

.. Respondents

(None for the respondents)

O R D E R (ORAL)

(Hon'ble Smt. Lakshmi Swaminathan, Member (J))

The applicants, fifty six in number, have filed this application praying for setting aside the impugned order dated 30.11.1998 and for a direction to the respondents to pay double rate Over Time Allowances (OTA) from the date when the similarly situated persons of other factories have been granted with interest.
the name is

2. The present applicants had filed an earlier application (OA 2418/96) which was disposed of by the Tribunal's order dated 18.3.98. In this order, it was noted, inter alia, that an appeal had been filed by ^{the} All India Ordinance Factories Para-Medical Staff Association dated 18.6.95 and another appeal dated 1.9.95 in which the orders of the Tribunal (Jabalpur Bench) dated 12.7.95 in OA 98/90 have been referred to. It was further noted that these two appeals remain unanswered. In the circumstances, the Tribunal by order dated 18.3.98 disposed of the OA with a direction to the applicants to make a detailed representation to the respondents, which shall be disposed of by them in accordance with the extant rules and decisions of the Tribunal of both Madras Bench (OA No. 969/89) dated 17.9.91, and Jabalpur Bench (Supra). The respondents have submitted that in accordance with the Tribunal's order dated 18.3.98, they have disposed of the applicant's representation by the impugned letter dated 30.11.98.

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3. The relevant portion of the impugned letter dated 30.11.98 reads as follows:-

" In view of the fact that only petitioners who won the cases in the CATs of both Madras and Jabalpur were given the payment of Double rate overtime due to court judgement in their favour though the extant rules of Government does not entitle payment of Double rate overtime to Para Medical Staff. The request for payment of overtime on Double rate of overtime allowance to the Para Medical Staff cannot be acceded to."

4. The applicants have, inter alia, submitted that as they are similarly situated employees of the respondents, ~~all~~ there is no justification for denying them double rate of OTA as given to the other employees. They have relied on the judgements/orders of the Tribunal in Madras and Jabalpur Bench(Supra). They have submitted that in the case ~~filed~~ filed before the Tribunal(Madras Bench), the applicants were working in the Hospital of Cordite Factory, Aruvankadu. They belong to ^{the} Para-Medical cadre. According to them, while employees working in ^{the} dispensary situated within the premises of the factory ~~they~~ ^{they} get double rate OTA, applicants who are working in ^{the} hospital in the same factory are getting single rate OTA which is ^a clear case of discrimination. They have also submitted that they have submitted a representation on 15.12.98 to the Secretary, Ministry of Defence, Govt. of India, Respondent 1 but no reply has been received so far. Hence the present OA.

5. The respondents in their reply have taken preliminary objections regarding jurisdiction and bar of res-judicata. In view of the orders dated 19.11.99 passed by the Hon'ble Chairman, the plea of lack of jurisdiction is rejected. The preliminary objection on the ground of res-judicata is also rejected taking into account the impugned order dated 18.3.98 passed in ^{the} previous OA 2418/98. The respondents have also submitted that they have not received any representation dated 15.12.98 which has been forwarded to Respondent 1 through Respondent 3 as alleged by the applicants. They have also

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disputed the claims of the applicants for double rate OTA, which according to them is not permissible under the relevant ~~existing~~ rules. They have, therefore, prayed that the OA may be dismissed as there is no merit in the same.

6. The respondents in their reply have submitted that some of the applicants have already retired/resigned from service and hence the OA is barred by mis-joinder of parties. I am unable to agree with this contention because the claim of the applicants ^{is} for payment of double rate OTA while they were working ~~in the~~ service, ^{and} their claims are similar. In any case, the same applicants had filed an earlier application (OA 2418/96) which was disposed of by order dated 18.3.98. Hence the plea of mis-joinder of parties ~~is~~ rejected, subject to the observations ~~made~~ below.

7. From the reasons given in the impugned order dated 30.11.98 reproduced in paragraph 3 above, it is seen that the only ground on which the respondents have rejected the claim of the applicants for double rate OTA is that only the petitioners in the cases before the Tribunal in Madras and Jabalpur Bench were given the payment of double rate OTA and, therefore, the applicants' request were rejected. The applicants have relied on certain orders of the Hon'ble Supreme Court in Girdhari Lal Vs. UOI & Ors (SLP(C) No.14405/92) dated 3.1.96 and Shiv Charan Lal and Ors Vs. UOI & Ors (SLP(C) 11126 of 95) dated 27.7.95. In the order dated 3.1.96 the Supreme Court has held that appellant-Girdhari Lal will be entitled to the same benefits in accordance with the decision of the Tribunal in an earlier case. In the order dated 27.7.95 ⁱⁿ the Apex Court noted that appellants ~~Shiv Charan Lal's~~ case (Supra) ⁱⁿ are similar to that ~~of~~ Santok Singh and Ors Vs. UOI (TA 1409/96), and ^{the} they may also be given/same benefits as given to the others. It is evident from the reasons given in the impugned order that the orders of the Apex Court given in similar circumstances have not been taken into account by the respondents. It is also


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not the case of the respondents that the orders of the Tribunal of both Madras and Jabalpur Benches in the aforesaid cases have not been implemented by them and they have become final and binding.

8. In the facts and circumstances of the case, it was for the respondents to verify the facts to see whether the employees in the application before the Madras Bench and Jabalpur Bench of the Tribunal and the situation of the present applicants are same or similar in material facts, which apparently they have not done. Following the judgements of the Supreme Court in the aforesaid two cases, I am unable to agree with the reasoning given by the respondents in the impugned order dated 30.11.98.

9. In view of what has been stated above, the OA succeeds and is allowed. The applicants may submit a copy of their appeal/representation dated 15.12.98 to Respondent 1 for his consideration. Respondent 1 shall thereafter consider the same, taking into account the aforesaid observations, including the judgements of the Hon'ble Supreme Court (Supra) and in case the applicants are similarly situated as the applicants in OAs 969/89 and 98/90 (Madras/Jabalpur Bench), they shall be entitled to similar benefits of double rate OTA. Necessary action shall be taken within four weeks from the date of receipt of a copy of this order with intimation to the applicants.

No order as to costs.


(Smt. Lakshmi Swaminathan)
Member (J)