

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A. No. 2153 of 1994

Dated New Delhi, this 09th day of November, 1995

Hon'ble Shri K. Muthukumar, Member(A)

1. Akhil Bhartiya Operational Staff Association (Police Wireless), Block No.9 C.G.O. Complex, Lodhi Road NEW DELHI 110 003 (Through V.P.S. Verma, Secretary General)
2. Shri Ashok Kumar, Wireless Operator Interpol Ridge Road NEW DELHI.
3. Shri Amitav Roy, Wireless Operator Interpol, Ridge Road NEW DELHI.
4. Shri Sujit Kumar, Wireless Supervisor Communication Centre, DCPW Block No.9, 1st Floor C.G.O. Complex, Lodhi Road NEW DELHI.
5. Shri Tarsem Lal, Wireless Operator Communication Centre, DCPW Block No.9, 1st Floor C.G.O. Complex, Lodhi Road NEW DELHI.
6. Shri Mahipal Singh, Wireless Supervisor Communication Centre, DCPW Block No.9, 1st Floor C.G.O. Complex, Lodhi Road NEW DELHI.
7. Shri Hiranyajyoti Hazarika Communication Centre, DCPW Block No.9, 1st Floor C.G.O. Complex, Lodhi Road NEW DELHI.

... Applicants

By Advocate: Shri A. K. Bhardwaj

versus

Union of India, through

1. The Secretary
Ministry of Home Affairs
Central Secretariat
South Block
NEW DELHI.
2. The Director
Directorate of Co-ordination
Police Wireless
Block No.9, C.G.O. Complex, Lodhi Road
NEW DELHI.
2. The Administrative Officer
Directorate of Co-ordination
Police Wireless
Block No.9, C.G.O. Complex, Lodhi Road
NEW DELHI.

... Respondents

By Advocate: Shri M. K. Gupta

O R D E R (Oral)

11

Shri K. Muthukumar, M(A)

This application by Applicant No.1 i.e., Akhil Bhartiya Operational Staff Association purporting to represent its members who are operational staff of the Directorate of Co-ordination (Police Wireless) under the Ministry of Home Affairs, is about non payment of overtime allowance to the operational staff. The Applicant No.1 being an Association, has annexed a copy of the resolution of the general body meeting held on 20th July, 1994 by which the Association by its Treasurer and Executive Member were authorised to file this application before the Tribunal and the Applicant No.1 is joined by six other Applicants who are stated to be members of the Association. M.A. 3618/94 for joining of the Applicants together is pending disposal and is listed today along with O.A. Since the M.A. is for joining of the Applicants along with Applicant No.1 and the Applicants have a common cause of action, the M.A. is allowed. The O.A. has already been admitted by order dated 9.10.95 and it has been taken up in its turn for final disposal today. The matter has been heard today.

Shri A. K. Bhardwaj, counsel for the Applicants and Shri M. K. Gupta, counsel for the Respondents are present. Since the matter is relatively simple, the application is being taken up for final disposal after hearing the parties and perusing the record.

2. The main grievance of the Applicants is that the Respondents have withheld the payment of overtime allowance although the overtime was performed by the various operational staff located in the different units of the organisation and despite the fact that the Applicant No.1

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in his capacity as Applicant No.1 had raised this matter with the Director, Directorate of Co-ordination, who is Respondent No.2 in this case in the application. The Respondents have not settled the claims so far. In this application however no specific details of overtime to which these claims are pending, details of the staff, the period of overtime and the amounts are given except that it is stated that claimings are pending since 1992. The application however gives some examples of some of the operating staff members and their names. The Application also seeks to quash the Respondents' circular dated 30.5.94 annexed as Annexure-A to the application.

3. The application is accompanied by some letters of the Communication Section of the Directorate forwarding to the Accounts Officer in the prescribed proforma, the names of individuals whose cases for overtime claims are stated to have been countersigned and sent to the Accounts Officer for necessary action. Admittedly, this list is not exhaustive but is only illustrative. The learned counsel for the Applicants argued that despite the fact that the members of the operative staff who had been deployed on extra hours duty at various stations from time to time, the Respondents had not permitted the drawal of overtime allowance and instead had returned the claims without seeking further verifications etc. and the matter has been dragging on for quite some time. The learned counsel for the Applicants stated that the eligibility for overtime allowance to the staff members in question, who are the members of the Applicant No.1, is not in doubt nor has it been denied by the Respondents. The scheme for overtime has been prescribed by the Ministry of Home Affairs and it is an admitted position that the operative staff under the Respondent No.2 are eligible to draw overtime allowance subject to satisfaction of the conditions prescribed by the

Respondents. He, therefore, prays that this matter which has been dragging since 1992 should be concluded by Respondents by having the claim duly settled as early as possible.

4. In the counter reply, the Respondents have raised two preliminary objections. The first one is that this application moved by Applicant No.1 is not maintainable in view of the fact that the Association which is the Applicant No.1 is neither recognised by Directorate of Co-ordination (Police Wireless, i.e. Respondent No.2 nor by the Ministry of Home Affairs, i.e. Respondent No.1. The second objection is that the Applicants have raised certain claims which are not specific nor have they given any specific details in respect of overtime claims and they are vague and on this score also, it is contended that the application is not maintainable.

5. The learned counsel for the Respondents referred to the Respondents' letter dated 22.6.92 annexed to the counter at page-35 and also to the Respondents' letter dated 30.5.94 at page-36 which is also impugned in this application. The learned counsel for the Respondents has stated that it has been clearly made out in the letter dated 22.6.92 that it is not possible to grant overtime allowance on a routine basis and therefore the overtime claims from the staff of out-stations, including the operational and technical staff, which are received in the Headquarters will not be entitled without proper justification for grant of overtime allowance ^{and this} /has already been made clear. As contended by the learned counsel for the Respondents this letter subsequently provided that the sanctioned strength of a station given by the S.I.U. is

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inclusive of the leave reserves and hence overtime allowance will be entertained only in the cases where there is deficit in the sanctioned strength and that overtime claims are to be sent with proper justification. The subsequent letter dated 30.5.94 which is impugned in this application further brings out clearly that the functioning of the station in the various units of the Directorate of Co-ordination (Police Wireless) is required to be managed without giving any overtime allowance to staff members except for special occasion while the overtime allowance is permissible where the staff members are to be deployed for additional hours on account of G.H./N.H., C/L and training etc. The learned counsel for the Respondents also pointed out that ⁱⁿ the aforesaid letter it is very clearly stipulated that the approval must be obtained from headquarters for putting any individual for overtime allowance in exceptional cases and no person should be deployed on overtime duties in anticipation of sanction from headquarters. The learned counsel for the Respondents also stated at the Bar that it is incumbent on the individual officers of these various units to get prior approval before deploying the staff members for its overtime work in accordance with the stipulations contained in the aforesaid letter. The learned counsel for the Respondents also argued that it is well within the powers of the Respondents to stipulate the conditions of eligibility for grant of overtime allowance and therefore the letter which seeks to bring out such conditions in clear terms before entertaining the claims for overtime, cannot be called in question.

6. I have heard the learned counsel for the parties and perused the record. It is admitted position that the members of the operational staff under the Respondent No.2

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are eligible to draw overtime allowance subject to the orders issued by the Respondent No.2 vide letters dated 22.6.92 and 30.5.94. The learned counsel for the Applicants contended that the letter dated 30.5.94 which is impugned has only prospective operation and therefore cannot regulate the claims prior to that date. It is seen that this impugned order is actually in continuation of the letter dated 22.6.92 which has also been referred to in the earlier part of this order. Even by the order dated 22.6.92 the instruction of sanctioning overtime allowance with proper justification is very much there. In regard to the prayer of the Applicants for quashing the circular dated 30.5.94, I find that this prayer is misconceived, for one thing, it does not show that the order has been issued in an illegal manner or the same is violative of any provision of law. It is within the employer's right to prescribe the condition for grant of overtime allowance and therefore the Respondents in their executive power are entitled to issue orders stipulating conditions for grant of overtime allowance. If this order itself is quashed then there is no mechanism by which the Applicants could be denied their overtime allowance because overtime allowance is not something that is automatically permissible under the condition of service. It is given by specific orders in respect of specific staff as provided in the scheme framed by the Respondents. As regard the contention of the learned counsel for the Respondents that the prayer of the Applicants is vague, I see that the Association has brought out the fact of the Respondents not honouring the claims of the Applicants for overtime from various dates is not justified and the learned counsel has stated that the Respondents have not honoured the claim for the block ending 20.8.92 and onwards. No doubt, the application itself does not specify the names of various individuals and periods for which overtime allowance has been claimed and the extent to which overtime allowance is allowed. This

of course, in an application of this kind, is not possible. In the arguments at the Bar, the learned counsel pointed out that for the Respondents, they have scrutinized the claims and returned them to the respective units stating that these claims are not in accordance with relevant orders namely, dated 22.6.92 and 30.5.94 and they have also ^{been} directed to submit their claims again in accordance with permissible hours depending on sanctioned strength and the claims are also to be supported by justification as required under the orders of the Respondents dated 22.6.92 and 30.5.94. The learned counsel for the Respondents stated that once these claims are again sent with proper justification with all the necessary details and the prior approval wherever taken as required under the orders, there should be no difficulty for Respondents to scrutinize these claims and pass the claims to the extent they are found to be justified. This however, in my view, would not be enough to complete the adjudication of this matter. It is an admitted fact that the claims have been scrutinized and they have been returned for want of proper justification. Admittedly, the claims which have been preferred are pending, may be with Assistant Director or officers in charge of different stations. These claims have to be looked into and then forwarded with proper justification so that these claims are scrutinized and processed further. As the matter has been dragging from 1992, it is proper that the Respondents should issue necessary instructions to all those officers responsible for processing the pending claims and forward the same to the Accounts Section for necessary action with proper justification.

7. In view of the above, the application is disposed of with the direction to the Respondent No.2 to issue immediate instruction to all the field officers responsible for processing the pending overtime claims to scrutinize

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and forward the claims with proper justification as required under the letter dated 30.5.94 to the Respondent No.1 within a period of six months from the receipt of this order. In respect of claims prior to the period of May, 1994 the pending claims will have to be accompanied with proper justification as required under the rules. It is also directed that the authorities responsible for passing the claims should also pass these claims within a period of three months from the date of receipt of the ^{officer} claims from the individual in charge duly recommended by the officer concerned. No costs.


(K. Muthukumar)
Member(A)

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