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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

Regn. No. OA 1130/88

Date of decision: 20.08.1992.

Shri M.P. Sharma & Others

...Applicants

Vs.

Union of India & Others

...Respondents

For the Applicants

...Shri B.S. Mainee
Counsel

For the Respondents

...Mrs. Raj Kumari
Chopra, Counsel

CORAM:

THE HON'BLE MR. P.K. KARTHA, VICE CHAIRMAN(J)

THE HON'BLE MR. B.N. DHOUDIYAL, ADMINISTRATIVE MEMBER

1. Whether Reporters of local papers may be allowed to see the Judgment? *Yes*

2. To be referred to the Reporters or not? *No*

JUDGMENT

(of the Bench delivered by Hon'ble Shri P.K.
Kartha, Vice Chairman(J))

The grievance of the applicants arises out of the impugned order dated 15.4.1988 whereby systematic overtime working limited to a maximum ceiling of 51 hours is allowed *per week* for the entire Ordnance Factory, Muradnagar except for Foreman, Assistant Foreman and Store Holder in whose case 50% of these categories will work on overtime. The 99 applicants before us belong to the category of Foreman, Assistant Foreman and Store Holder in the said Factory.

2. We have gone through the records of the case carefully and have heard the learned counsel of both parties. The Ordnance Factories produce the material to keep the Army well-equipped and are the life line for the supply of the Defence Equipments. The systematic overtime has been in vogue for more than three decades. It was paid to all workmen and supervisory staff who were utilised beyond their office hours as a regular measure. The systematic overtime is distinct from casual overtime which is intended to cope up with the left over work beyond the duty hours. According to the applicants, systematic overtime is one of the conditions of service and it is a regular and constant feature of their emoluments.

3. The Third Pay Commission recommended dispensing with the scheme of systematic overtime. The Fourth Pay Commission also reiterated the same. Despite this, the respondents did not dispense with it but limited it to a maximum ceiling of 51 hours per week instead of 54 hours for all the categories except to the category to which the applicants belongs in whose case 50% of the systematic overtime work has been reduced. The applicants have challenged it as being arbitrary and discriminatory.

4. The stand of the respondents is that overtime cannot be claimed as a matter of right and that systematic overtime is not a service condition and cannot be claimed as part of pay.

5. The learned counsel for the applicants heavily relied upon the judgment of the Supreme Court in *Workmen Vs. Management of Reptakos Bleitt and Co. & Another, 1992(1) SLJ (CAT) 34*. In that case, the question for consideration was whether the company was entitled to restructure the DA scheme by abolishing the slab system and substituting the same by the scheme - prejudicial to the workmen - on the ground that the slab system has resulted in over-neutralisation thereby landing the workmen in the higher-wage island. The Supreme Court observed that the management can revise the wage structure to the prejudice of the workmen in a case where due to financial stringency it is unable to bear the burden of the existing wage. But in an industry or employment where the wage structure is at the level of minimum wage, no such revision at all, is permissible - not even on the ground of financial stringency. It is, therefore, for the management, which is seeking restructuring of DA scheme to the disadvantage of the workmen to prove to the satisfaction of the Industrial Tribunal that the wage structure in the industry concerned is well above minimum level and the management is financially not in a position to bear the burden of the existing wage structure. The Supreme Court expressed the view that the Tribunal was not justified in abolishing the slab system of DA which was operating in the company for about thirty years. *Q*

6. In our view, the aforesaid judgment is clearly distinguishable. The issue involved in the case before us relates to the ceiling on systematic overtime imposed by the respondents in respect of certain categories of staff of Ordnance Factory at Muradnagar and not about any DA scheme.

7. The issue raised in the present application had been raised in TA 112/1987 (Sukumar Ch. Khan Vs. Union of India) which was disposed of by the Calcutta Bench of the Tribunal by judgment dated 6.4.1990 and in a batch of applications disposed of by the Principal Bench by judgments dated 5.6.1992 (OA No. 1774/1991 and connected matters - S.M.A. Haque & Others Vs. Union of India & Others). The Tribunal has held that when the discretion of giving overtime duty rests on the management, it is for the management to decide as to who would be detailed for such work and for what period. The booking of 50% NGOs on systematic overtime is a step which seems to have been taken by the respondents in the direction of the ultimate objective of eliminating overtime working with a view to reduce stress and strain on the workers and to improve productivity. The respondents have the right to formulate policy in such matters. We respectfully reiterate the same view and hold that the applicants are not entitled to the relief sought by them.

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8. In the light of the foregoing, we see no merit in the present application and the same is dismissed. There will be no order as to costs.

B.N. Dhundiyal
(B.N. DHUNDIYAL) 19892
MEMBER (A)
20.08.1992

P.K. Kartha
20/8/92
(P.K. KARTHA)
VICE CHAIRMAN (J)
20.08.1992

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