

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
NEW DELHI

7

O.A. No. 728  
T.A. No.

198 6

DATE OF DECISION July 28, 1987.

Shri Jagdish Lal Kapoor, Petitioner

None. Advocate for the Petitioner(s)

Versus

Divisional Railway Manager, N.Rly Respondent(s).  
and others

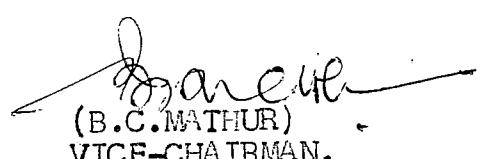
None. Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. B.C. Mathur, Vice-Chairman.

The Hon'ble Mr.

1. Whether Reporters of local papers may be allowed to see the Judgement ? *Yes*
2. To be referred to the Reporter or not ? *No*
3. Whether their Lordships wish to see the fair copy of the Judgement ? *See*
4. Whether to be circulated to other Benches? *No*

  
(B.C. MATHUR)  
VICE-CHAIRMAN.

28.7.1987.

(8)

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH  
DELHI.

REGN. NO. OA 728/1986.

July 28, 1987.

Shri Jagdish Lal Kapoor ...

Applicant.

Versus

Divisional Railway Manager,  
Northern Railway and others ...

Respondents.

CORAM:

Hon'ble Mr. B.C.Mathur, Vice-Chairman.

For the applicant ...

None.

For the respondents ...

None.

(Judgment delivered by Hon'ble Mr. B.C.Mathur,  
Vice-Chairman).

Although the advocates have appeared in this case on behalf of the applicant as well as for respondents, no one including the applicant appeared before the Court on 23.7.1987, 24.7.1987 and again on 28.7.1987 when the case was posted for final hearing. It has, therefore, become necessary to pass orders on the basis of records filed before the Tribunal.

This is an application under Section 19 of the Administrative Tribunals Act, 1985, against the non-payment of compensation in the form of payment of overtime allowance to the applicant during the period January, 1983 to December, 1984.

The applicant was working as Enquiry and <sup>of</sup> Reservation Clerk in the Grade/Rs.425-640 in the Control Office of Northern Railway at New Delhi. At that time, he was not allowed weekly off (Rest) but

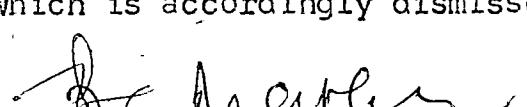
was getting overtime allowance. The applicant was promoted as Chief Enquiry Clerk (Enquiry Clerk Grade I) in the grade of Rs.455-700 on 21.1.1983. According to the applicant, he approached his seniors for weekly off or compensation in lieu thereof but he received neither till 7.12.1984. The case of the applicant is that an employee is entitled to have some rest after doing his duty for 5-6 days but this was denied to him and he was not compensated by way of payment of overtime allowance in lieu of such rest. According to the applicant, he should be paid overtime allowance for 1142 hours which would entitle him to about Rs.10,000/-. The applicant retired from Government service on 31.12.1985.

In their reply, the respondents have stated that the applicant was promoted to the scale of Rs. 455-700 on 21.1.1983. Consequent upon his promotion, the post held by the applicant came under the category of 'Supervisory Staff' under Sub-Clause (v) of Clause (c) of Section 71A of the Indian Railways Act, 1890. The supervisory post falls under the 'Excluded' category under Section 5(2) of the Railway Servants (Hours of Employment Rules 1961). Since the applicant held the 'Excluded' category post, he was not entitled to any compensation or overtime wages. On his promotion to the scale of Rs.455-700, he was elevated to a post

which was supervisory in nature. This classification has been made on the ground that such Railway Servants hold a position of responsibility and are employed on duties mainly of supervisory character. Normally in such a position, one cannot adjust hours of duty or work to some extent.

The applicant has claimed that upgrading of post as a result of cadre restructure did not make any change in his duties and responsibilities and no supervisory functions have been added to the post.

It is, however, true that the applicant was promoted from the grade of Rs.425-640 when he was Enquiry and Reservation Clerk to the grade of Rs.455-700 in the post of Chief Enquiry Clerk (Enquiry Clerk Grade I). It cannot be denied that the post of Chief Enquiry Clerk would be a 'supervisory' job and under Section 5(2) of the Railway Servants (Hours of Employment Rules 1961) being a supervisory post, the applicant is not entitled to any overtime allowance as claimed by him. By the very nature of the classification of posts, a Chief Reservation Clerk would have some supervisory functions over the Reservation Clerks. As such, there seems to be no merit in the application which is accordingly dismissed.

  
(B.C. MATHUR)  
VICE-CHAIRMAN.

28.7.1987.