

15

Central Administrative Tribunal  
Principal Bench, Delhi.

REGN. NO. RA 85/87 in OA728/86... Date of decision 29.4.88

Shri Jagdish Lal Kapoor .... Applicant

Vs.

Union of India .... Respondents

PRESENT

Shri S.K. Sawhney ... Advocate for the applicant.

Shri Ajay Goyal ... Advocate for the respondents.

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

A review application has been filed against the orders passed by this court on 28.7.1987 in which the applicant was denied overtime allowance on the grounds that the post of Chief Enquiry Clerk would be a supervisory post and that by the very nature of the classification of posts, the Chief Reservation Clerk would have supervisory functions over the Reservation Clerks. The original application was dismissed on merit on these grounds.

2. It has been argued by the learned counsel for the applicant that the applicant was in fact having no supervisory function and he continued to perform the same duties as he was performing while working as an Enquiry Clerk prior to 21.1.1983. According to Rule 3503 of the Railway Establishment Manual, Chapter V, the wordings are "that the employment of the Railways is to be treated as exclusive category and not the post as such". Rule 3504 clarifies that a supervisory duty will be one where the nature of work is mainly supervisory and where a person is comparatively free to adjust his work. It was brought out that the Railway Board in their letter No. E(II)84/HER/1-28 dated 20.11.84 on the subject of Hours of Employment Regulations had clarified that where there is no change in the duties and responsibilities and no supervisory functions are attached to such posts, the staff concerned may be

18

allowed overtime. The Senior Divisional Personnel Officer in the office of the DRM, New Delhi, made a specific reference to the Senior Personnel Officer, Northern Railways Headquarters, in his D.O. dated 3.4.85 where he clarified that the applicant was promoted to the post of Enquiry and Reservation Clerk in the grade of Rs. 455-700 with effect from 21.1.1983 prior to the restructuring of the cadre which carries supervisory classification as per list of supervisory staff issued by the Railway Board, although the applicant was performing identical duties which were assigned prior to his promotion with effect from 21.1.1983. He wanted a clarification whether such staff could be taken out of the list of supervisory staff and allowed the privilege of overtime payment. No decision was conveyed ~~on~~ the reference.

3. Prima facie, there has been no change in the functions and duties of the applicant even though he was promoted to the post of Chief Reservation Clerk ~~which was included in the category of supervisory staff~~ and thus excluded from the purview of the overtime facility. Since the Railway Board have themselves clarified that such persons may be allowed overtime, it appears reasonable that the applicant should be allowed the facility of overtime. The learned counsel for the respondents said that while such a staff may be allowed overtime, in fact the letter of the Railway Board had not been implemented in practice and as such the applicant <sup>can</sup> ~~should~~ not claim overtime as a matter of right.

4. In view of the fact that a distinction has to be made between "employment" and "post" as mentioned in the Railway Establishment Manual and in view of the fact that the nature of work did not change, it would be reasonable to allow the applicant the facility of overtime even though his post has been classified as supervisory. The quantum of overtime allowance may be worked out by the respondents according to rules, but they are directed

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to make payment of the overtime allowance according to rules within a period of three months from the issue of these orders.

The learned advocate for the applicant has also made a request for interest charges <sup>on</sup> ~~for~~ delayed payment. This request is not accepted.

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The review application is allowed partly, and the applicant gets entitled to receive overtime payment.

*B.C. Mathur*  
29.6.88  
(B.C. Mathur)

Vice-Chairman