

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
DELHI

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Regn. No. DA 1445/1987

Date of decision 1-6-90

Shri Krishan Lal .. Applicant

vs

Union of India & Ors .. Respondents

CORAM:

Hon'ble Mr Justice Amitav Banerji, Chairman

Hon'ble Mr I.K. Rasgotra, Member (A)

For the applicant .. Shri B.S. Mainee, counsel

For the respondents .. Shri B.K. Aggarwal, counsel

(Judgement of the Bench delivered by
Hon'ble Mr Justice Amitav Banerji, Chairman)

The short question to be determined in this Application filed under Section 19 of the Administrative Tribunals Act, 1985 is whether the Station Superintendent who, in the absence of Head Goods Clerk, supervises his work is entitled to be paid over time for the said work. The applicant stated that he is entitled to over time as for a period of more than one year there was no ^{Head} Goods Clerk and he looked after his work in addition to his duty as Station Superintendent. The respondents' stand is that the Station Superintendent's post is of supervisory nature and the applicant had supervised the work of the Head Goods Clerk and as such, he was not entitled to any extra emolument or over time. They stated that the post of Station Superintendent, Sasni is classified as supervisory post.

The relevant facts in this case briefly stated are as follows:

The applicant was working as Station Suptd., Northern Railway at Sasni Railway Station. Shri R.S. Gupta, who was the Head Goods Clerk at Sasni and was working under the applicant retired from service w.e.f. 30.6.1984. No Head Goods Clerk was posted by the Divisional Office vice Shri R.S. Gupta. The applicant performed his own duty as Station Suptd. and also looked after the work of the Head Goods Clerk. The applicant had made an application for payment of over time but the Divisional Office rejected the same vide order dated 7.5.1986. The applicant has retired from service on reaching the age of superannuation. He has prayed for quashing the order dated 7.5.1986 at Annexure I and to direct the respondents to arrange payment of over time amounting to Rs. 10,862 with interest at the rate of 12% per annum from the date admissible to the date of payment.

In the reply, the respondents have pointed out that the applicant had been promoted to the post of Station Superintendent in the grade of Rs. 700-900 on 1.8.1982. It was also stated that there were no entries of the applicant having performed any over time in the Over Time Register. It was also admitted that the applicant had performed the duty of Head Goods Clerk in addition to his own duty but did so during the normal working time.

We have heard learned counsel for the applicant, Shri B.S. Maines and learned counsel for the respondents,

Shri B. K. Aggarwal. As far as the facts go, there is no dispute that the applicant was the Station Superintendent of Sasni Railway Station, Northern Railway during the relevant period. He was in a supervisory post. On the retirement of Shri R.S. Gupta, the Head Goods Clerk, no one was sent in his place for more than a year and the applicant had looked after the work of Head Goods Clerk during the said period in addition to his own duty. The question is whether for performing the duty of the Head Goods Clerk, he is entitled to be paid over time allowance. The applicant also claimed that he worked on Sundays also. The respondents had pointed out that being a member of the supervisory staff, he was entitled to a weekly day off and he was not expected to work on those days. It was also specifically pleaded by the respondents that the applicant was holding a supervisory post and it was his duty to look after the work of all the Branches under him as Station Superintendent. This included the work of the Head Goods Clerk. This work was of a supervisory nature and for this no allowance was claimable. The applicant has further claimed that he worked beyond office hours. This is, however, hotly disputed by the respondents.

What is however significant is that there is no evidence that the applicant had worked beyond the normal office hours. It is common knowledge that whenever a

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person works beyond his duty hours, an entry is made in the Over Time Register. The applicant accepted the position but stated that entries were not made in the Over Time Register because he was instructed orally by the Over Time Inspector that he could not make entries about his own over time hours in that register and consequently he did not make any entry in the Over Time Register.

There are two lacunae in the above stand of the applicant. Firstly, there is nothing in writing by the Divisional Railway Manager (DRM)'s office that he could not make any entry regarding over time work in the Over Time Register. Secondly, even if the Inspector had given him this information, it was incumbent on the applicant to have written and ascertained the correct position from the DRM's office at Allahabad. The applicant, it appears, did not proceed in the matter. The applicant's stand in this respect cannot be accepted in the absence of any supporting evidence. The fact, therefore, remains that there was no entry in the Over Time Register that he had ever put in any over time duty. It was urged by the respondents that in the absence of any such entry it was not possible for the Railways to consider the question whether a Railway servant is entitled to over time or to calculate the same. We find sufficient force in this contention. Over time cannot be assessed merely on an assumption that a person has

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put in over time duty. There has to be some entry in regard to the number of hours and the days when it was done so. In the absence of this material, it is not possible for the Railways to calculate or to pay any amount as over time. The Railway's audit would require a proper assessment of any amount paid with supporting evidence. This is not there. Consequently, the applicant's prayer that he is entitled to over time is not made out.

Learned counsel for the applicant argued that the applicant though belonging to supervisory staff had worked continuously, looking after the work of Head Goods Clerk and as such he was entitled to over time ^{as} per Rule 25 of Railway Servants (Hours of Employment) Rules, 1951. That Rule reads as follows:

"25. Utilization of Supervisory staff in place of "C" "Int" and "EI" workers. - The employment of Supervisory" staff in "Continuous" "Essentially intermittent" or "Intensive" posts in addition to their duties of a supervisory character should be discouraged. In unavoidable circumstances, however, when such a contingency arises, the supervisory staff may be deemed to have been classified as "Continuous", "Essentially Intermittent" or "Intensive" as the case may be for the period they are so utilised, payment of overtime being made on the basis of proportionate hours of normal work for the period in question."


The above Rule will apply when the work is continuous. The argument proceeded on the footing as if there were no Goods Clerks at all and all the work of Goods Clerks had to be done by the Station Superintendent. It was admitted that there were Assistant Station Masters and Goods Clerks also under the Station Superintendent. It was

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asserted that the applicant merely did the supervisory work of the Head Goods Clerk. It is true that the Head Goods Clerk also has to do some amount of work but even then he has a limited number of hours to work. He is not working continuously for 24 hours. His presence is not required for all the 24 hours. Goods are either booked or delivered to customers during certain fixed hours and the duty of the Head Goods Clerks pertains utmost to those hours. Consequently, it cannot be said that the work done by the Head Goods Clerk was of a continuous nature. On the same parity of reasoning, the Station Superintendent would not be doing continuous work for all the 24 hours. Consequently, he would not be entitled to payment of over time. The contention of the applicant that he was made to work on Sundays or other holidays and was not able to get his weekly day off because he was looking after the work of the Head Goods Clerk is also not acceptable for the reason that there is no supporting evidence in this respect. However, the fact remains that no Head Goods Clerk was posted to Sasni Railway Station after the last incumbent retired from service w.e.f. 30.6.1984 till 11.5.1985. The applicant being the Station Superintendent of the said station admittedly had to look after the duties and responsibilities of the Head Goods Clerk in addition to his normal supervisory duties. These duties, even though supervisory would be more intensive than when the Head

Goods Clerk has been in position. It will be, therefore, in the interest of justice if the respondents consider payment of a fixed sum calculated at a fixed monthly honorarium to the applicant for the period he looked after the responsibilities of the Head Goods Clerk in his supervisory capacity.

We, therefore, dispose of the O.A. with the above observation. There will be no order as to costs.


(I.K. Rasgotra)
Member (A)


(Amitav Banerji)
Chairman