

C

CENTRAL ADMINISTRATIVE TRIBUNAL PRINCIPAL BENCH NEW DELHI

Original Application No. 1568 of 1987

Roop Kisnore and others . . . . . Applicants

Versus

Union of India & Others . . . . . Respondents

Hon'ble Mr. Justice U.C. Srivastava, V.C.

Hon'ble Mr. K.S.R. Adiga, Member (A)

( By Hon'ble Mr. Justice U.C. Srivastava, VC)

The applicants are working as 'Driver' in Safdarjang Hospital in the pay scale of Rs. 950-20-1150-EB-25-1500, as a result of fourth pay Commission's report, the applicant has approached the tribunal praying that a mandamus be issued directing the respondents to treat the applicants equally in the matter of payment of overtime allowance at the rate of Rs. 6.95 per hour and they may be treated equally with the other drivers and allowances may be paid to the applicants w.e.f. 23.12.1982.

2. The pay scales of Staff Car Drivers in Ministry/ Department which has been brought at par with the pay-scale of applicants--Drivers after the implementation of order dated 13.9.1986 passed in pursuance of the fourth pay commission report. So far as the drivers are concerned; there is only one pay-scale. The grievance of the applicant is that the Staff Car ~~xxx~~ drivers. The staff Car drivers were paid overtime allowance at the rate of Rs. 3.45 per hour and this rate of overtime allowance was revised by the said notification dated 13.10.1983, respectively effect from 23.12.1982 and by means of an amendment in the rule 26 of the staff car Rules. The rate of overtime allowance was fixed at 6.95 per hour for those whose basis pay was Rs. 925/- or and above. But this amendment in the Staff Car Rules was made

Contd..2/-

5

:: 2 ::

applicable only to staff car driver in Ministry/Department and in attached offices to Government of India. The applicants have been deprived of this enhancement in the rate of over time allowance which is discriminatory. The posts of ~~the~~ drivers are interchangeable and transferable and includes taking the Hospital Staff i.e. Medical Superintendent, Deputy Administrative Officers and Senior Doctors etc. The nature of work of all the drivers including the staff car drivers whether in the Ministry/Department is identical and notwithstanding the fact that every one is in the same pay-scale, but over time allowance continued to pay at the lower rate, but it is paid to the other drivers, the reference to which has been made above notwithstanding the fact the principle of equal work for equal pay has come to, is taken in this country.

2. ~~there is~~ The respondents have opposed the application on the ground that no post of staff car drivers, as such the applicants are not entitled to the same and allowance was also part of the pay. There appears to be no reason to discriminate between once city driver and other city driver, but was placed in the same pay-scale and even if one is a driver of a Truck and one is a staff car driver that is not a ground for discriminating one with the other. In the case of Abid Hussain Vs. Union of India (A.I.R. 1987 Supreme Court page 820) which was the case of Air conditioned coach incharge of the Northern Railway. It was found that Air conditioned coach incharges and <sup>were</sup> attendants of Western, Central, Eastern Railway getting over times allowances for extra duties since 1986 for two weeks, Air conditioned coach incharges, Attendants Northern Railway were held also entitled to such compensation on the same basis. Similarly in the case of M.D. M Annikar Vs. Steel Authority of India Ltd., it was held that :

" while one department getting over time at double the normal rate, other departments of the undertaking not getting the same, hence, ~~other~~ other department also directed to be paid over time at the double rate prospectively and having regard to their long standing department (since 1962), arrears of over time directed to be calculated at the rate of  $1\frac{1}{2}$  of the normal rate of wages from February 24, 1962." is

On the basis of same principle, the applicants also entitled to the over time allowance at the same rate i.e. 6.95 which is paid to the other prospectively. However, so far as the claim of the applicants is concerned; they are also entitled to from 1.1.1986 i.e. the date

~~from which~~

Contd..3/-

6  
:: 3 ::

from which the others are getting it. The same may be calculated at the rate of  $1 \frac{3}{4}$  of the total amount which the applicants should have got in case, they would have been paid over times allowance @ 6.95, which may include in the revised rate if the same has been hither too revised. The arrears be also paid to them. Let it be done within a period of three months from the date of receipt of the copy of this order. No order as to costs.

*R. J. J. J.*  
Member (A)

*ls*  
Vice-Chairman

Dated: 17.3.1993

(RKA)