

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

OA NO.2219/2004
MA NO.1860/2004

New Delhi this the 28th November, 2005

HON'BLE SHRI M.P.SINGH, VICE-CHAIRMAN(A)
HON'BLE MRS.M EERA CHHIBBER, MEMBER(J)

Fourth (IV) Class Employees (Gateman & Pointman) Sangharsh Samiati , through its President.

1. Sh. Satender Singh
S/o Sh. Kunwar Singh, Working as Points Man
At Railway Station Dev Bandh, Delhi Division.
2. Sh. Chatar Singh, S/o Sh. Simroo,
Working as Points Man
At Railway Station Muzzafar Nagar,
Delhi Division.

...Applicants.

(By Advocate: Shri M.K.Bhardwaj)

Versus

Union of India & Ors through

1. The General Manager,
Northern Railway, Baroda House, New Delhi.
2. The DRM, DRM Office, Paharganj, New Delhi.

...Respondents.

(By Advocate: Shri R.L.Dhawan)

ORDER (ORAL)

By Shri M.P.Singh, Vice-Chairman(A):

By filing this OA, the applicant has claimed the following relief:

"(i) to direct the respondents to fix the duty hours of the applicants as 8 hours per day like other employees and pay overtime allowances for the period of duty performed up the applicants over and above 8 hours of duty.



(ii) to direct the respondents to change the category/classification of the post of Gateman and Points man from Essential Intermittent to continuous.

(iii) to quash and set aside the verbal order of the respondents whereby the rest period of two days has been reduced to one.

(iv) to direct the respondents pay to the applicants Over Time Allowances not less than two times of his ordinary rate of pay.

(v) to pass such other and further orders which their lordships of this Hon'ble Tribunal deem fit and proper in the existing facts and circumstances of the case."

2. Applicant No.1 is an Association of Fourth Class Employees (Gateman & Points Man) Sangharsh Samiti and Applicant No.2 is working as Points Man at Railway Station Mazzafar Nagar, and is a Member of the Association. According to the applicants, their service conditions are very bad as they had to work for 24 hours on a very meager amount. The International Labour Organisation had intervened and forced the Respondents to change the service conditions of the above-mentisoned posts. As per the Hours of Employment Regulation, the duty hours have been fixed at 12 hours on the ground that the nature of work is intermittent and they work physically only for 6 hours. Some of the similarly situated employees had approached the Tribunal by filing OA 1223/88 which was disposed of by the Tribunal with a direction to the Respondents to consider the grievance of the applicants in the said OA by taking into account their factual job and pass appropriate orders. The learned counsel for the applicant has



submitted that the applicants in the present OA are similarly situated persons and this OA can be disposed of by issuing the same directions to the Respondents.

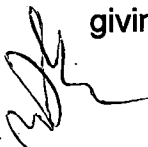
3. On the other hand, learned counsel for the respondents, Shri R.L.Dhawan has taken a preliminary objection and has submitted that as per Rule 3(1) of Hours of Employment Regulation – Chapter XXXV of IREM, the power to declare the employment of a Railway Servant as intensive or essentially intermittent within the meaning of Section 7 (A) shall vest with the Head of the Railway Administration or with an officer not below the rank of Senior Scale Officer as a temporary measure during the periods of emergency. A copy of every declaration made under sub-rule (1) shall be sent to the Regional Labour Commissioner. If any question arises in respect of a declaration made under Rule 3, the matter shall be referred to the Regional Labour Commissioner whose decision, subject to the provisions of sub-rule (2) shall be final. Any person aggrieved by a decision of the Regional Labour Commissioner may, before the expiry of 30 days from the date on which the decision of the Regional Labour Commissioner is communicated to him, prefer an appeal to the Government whose decision thereon shall be final. He, therefore, submits that the applicants have not exhausted departmental remedies as mentioned

above and, therefore, the OA is not maintainable.



4. As regards the merit of the case, learned counsel for the respondents has submitted that the employees posted at Sonapat, Badli and Azadpur cannot be compared with the staff working with the applicants at Deoband and Muzaffarnagar. He has also submitted that the stations viz Sonapat, Badli and Azadpur are falling on the electrified route of Delhi Ambala Kalka Section (double line) whereas stations Muzaffarnagar and Deoband are falling on non-electrified route of Meerut – Saharanpur Section with single line working. He has further submitted that the duty roster of Pointsman at Sonapat and Badli are also 'Essentially Intermittent' roster i.e. 12 hours shift. Azadpur is a flag station and there are no posts of Pointsman. Moreover, the said Samiti is not recognized to represent the grievances of Group 'D' staff. It is further submitted that if the applicants are aggrieved by their existing classification, they have to avail the remedy available to them under the Railway Servants (Hours of Employment) Rules, 1961, which have statutory force. In view of aforesaid submissions, the OA has no merit and is liable to be dismissed.

5. We have given our careful consideration to the rival contentions of the parties. We find that earlier similarly situated persons have filed OA 1223/1988. The issue involved in the present case has been considered by the Tribunal while disposing of the OA 1223/88. The OA 1223/88 was decided by this Tribunal vide its order dated 16.9.91 by giving the following directions:



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"7. Considering the facts and circumstances of this case, we consider that it will be sufficient to pass the following order in response to the prayers of the applicants:

The applicants may prefer a fresh representation to the first respondent, i.e., General Manager, Northern Railway requesting review and re-classification of their jobs under the Railway Servants (Hours of Employment) Rules. The said representation, as and when submitted, shall be entertained by the General Manager, Northern Railway. He shall, within a period of 60 days thereafter, pass an appropriate order for conducting a 'Factual Job Analysis' according to a time table which shall be prescribed in this order, and thereafter take further action, as called for, for re-classification of the jobs in question.

Application disposed of accordingly. There will be no order as to costs."

6. We are fully in agreement with the directions given by the Tribunal in OA 1223/1988 and dispose of this OA with the direction to the applicants to make a detailed representation to the concerned respondents within four weeks from the date of receipt of a copy of this order. If the applicants comply with this, then respondents are directed to consider the representation of the applicants and treat this OA as a part of representation and take a decision by passing a speaking, detailed and reasoned order within a period of four months from the date of receipt of the representation. OA is disposed of in the aforestated terms. No costs.



(Meera Chhibber)
Member (J)



(M.P. Singh)
Vice Chairman(A)

/kdr/