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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH : NEW DELHI

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U.A. No.723 of 1992

Date of Decision: 13th January 1994

Hon'ble Shri J. P. Sharma, Member (J)

Shri Har Parshad
Booking Supervisor
Northern Railway, Hissar
R/o Railway Colony
Hissar (Haryana)

... Applicant

By Advocate Shri V. P. Sharma

Vs.

1. Union of India
Through the General Manager
Northern Railway
Bikaner.

2. The Divisional Railway Manager
Northern Railway
Bikaner.

3. The Divisional Commercial Supdt.
Northern Railway
Bikaner.

... Respondents

By Advocate Shri D. S. Mahenaru,
Proxy for Shri P.S. Mahendru.

U R D E R (oral)

Hon'ble Shri J. P. Sharma, Member (J)

The grievance of the applicant, in his application filed on 12.3.92, is against an order conveyed to him by the respondents on 23.4.90 (Annexure A/1) denying his claim for Overtime Allowance for the period from May 1986 to February 1987 for the duty performed beyond regular hours while the applicant was allegedly posted as Booking supervisor at Northern Railway, Ratangarh Station in Bikaner

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Division.

2. A notice was issued to the respondents who filed their reply and took the stand that the applicant had neither performed extra hours of duty during the period from May 1986 to February 1987 nor had he submitted any claim at the relevant time.

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The ~~statutory~~ jurisdiction of the Tribunal is also challenged on account that at the time of filing this O.A. the applicant was posted at Hissar and that Chandigarh Bench of L.A.T. has the jurisdiction in the matter.

3. On merit the respondents contested the claim on the ground that the applicant only worked as Chief Parcel Officer which is a supervisory post in the grade Rs.2000-3200 and which is classified as an excluded worker under Hours of Employment Regulations, 1961. It is stated that the Bill was returned as it was not submitted as per rule and at the relevant time. The relevant time for submitting the claim was before March 1989. Thus, it is stated that the application is devoid of merit.

4. The applicant has also filed a Rejoinder reiterating the grounds taken in the O.A. It is averred and emphasised that the only ground on which the claim was rejected as revealed in the impugned order of 23.4.90 has been that the claim was not

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submitted in time.

5. We heard the learned counsel for the parties at length. The learned counsel for the applicant has referred to a decision of the Hon'ble Supreme Court in the case of Mohinder Singh Gill and another versus the Chief Election Commissioner, New Delhi and Ors. which observed that:

"when a statutory functionary makes an order based on certain grounds, its validity must be judged by the reasons so mentioned and cannot be supplemented by fresh reasons in the shape of affidavit or otherwise."

The learned counsel for the respondents referred to the counter and argued that on the relevant period for which the Overtime Allowance is claimed i.e. from May 1986 to February, 1987, the applicant had not worked as Booking Clerk at Ratangarh Station but he worked as Chief Parcel Supervisor which is a supervisory post and the rules for granting the Overtime Allowance are not applicable to such employee discharging their function. Neither the applicant nor the respondents have filed any documentary evidence in support of the fact as to which post the applicant worked in the relevant period. Basically, a person who comes to the Court, has to establish his case. Further the impugned letter of 23.4.90 the address in the title shows the applicant as Booking Supervisor, Ratangarh and the learned counsel for the

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applicant explained the matter in the manner that when the communication was addressed to the applicant, he was posted at that place and that will not be taken to mean that the applicant has worked as Booking Supervisor.

6. The learned counsel for the applicant, therefore, argued that the request for Overtime Allowance be considered and be not rejected as the claim was submitted in time. It shall, therefore, be open to the respondents to find out whether the applicant had discharged his duty as Booking Supervisor during the relevant period or, as has been taken their stand in the reply, that the applicant worked on supervisory post of Chief Parcel Supervisor in the grade as.2000-3200.

7. Normally, the time laid down in the administrative instructions has to be observed for settlement of the claim. In this case, the claim, as per directions issued by the A.D.R.M., should have reached on 31.3.89. There is a subsequent correspondence annexed with the application wherein the applicant has taken stand that he had submitted the claim much before the cut-off date. In the reply, the respondents have not given any specific reply to the aforesaid annexure annexed to the counter. Only denying a particular fact without substantiating the same by document available with the respondents, cannot be taken to be a factual position.

8. The learned counsel for the applicant, therefore, during the course of the arguments, modified his original claim: if at all the applicant had worked on the post of Booking Supervisor of Ratangarh Station in Bikaner Division and argued that the claim be considered for the period from May 1986 to February 1987 and as not rejected as having not ^{been} submitted in time. This fact is not seriously disputed by the counsel for the respondents.

9. In view of the facts and circumstances, the application is disposed of with the direction to the respondents to consider the claim of the applicant mentioned in the impugned order dated 23.4.90 and if the applicant has actually worked for the period between May 1986 to February 1987 as Booking Supervisor, Ratangarh Station of Bikaner Division and is not excluded under the Hours of Employment Regulations, 1961, then the case of the applicant be considered by the respondents, and it is reiterated that it should not be thrown out as barred by time. The applicant shall make a fresh representation to the respondents and the respondents to dispose of the same within 3 months from the date of receipt of the representation. Any observation made in the aforesaid judgement would not be taken as prejudiced ^{as to} any of the parties for decision of the claim. Cost on parties.