

CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH  
ALLAHABAD

Original Application No.364 of 1998

Allahabad this the 17th day of December, 1999

Hon'ble Mr.S.K.I. Naqvi, Member (J)

1. All India Association of Para Medical Staff,  
Ordnance Clothing Factory, Shahjahanpur through  
its President Anant Singh S/o Ram Singh.
2. Smt. Nirmala Singh, Matron.
3. Smt. Kumkum Sen, Matron.
4. " P.J. Bajpai, Sr.Nurse.
5. " G. Hencock "
6. " A.B. Singh "
7. " A.M. Singh "
8. " S.M. Brown "
9. " E.P. Sagar "
10. " R.C. Singh "
11. " Sharda J.Masih "
12. " V.V. Sakhrey "
13. " Suneeta Chaudhari "
14. " N.P. Singh "
15. Sri Anant Singh D.R.A.
16. " Kewala Nand P.H.N.
17. " Murtaza Hussain Pharmacist
18. " S.N. Agnihotri "
19. " Vijender Sharma "
20. " Ved Ratan "
21. " Rajeev Agnihotri "
22. " M. Abdul Wajid "
23. " R.S. Sonkar "
24. " J.J. Ram "
25. " Geeta Ram "
26. " Subodh Sagar "

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Shri  
 27. /Om Prakash Gupta Ward Master  
 28. " P.N. Pandey L.T.  
 29. N Nand Lal Ram do  
 30. " Lala Ram B.T.A.  
 31. " S.C. Srivastava Supervisor(hygiene Cell)  
 32. " Roobie Laranzoo Mid Wife  
 33. " Krishna Dua "  
 34. " Dhan Devi do  
 35. Smt. M.K. Gupta Family Planning  
 Extention Educator  
 36. U Urmila Khurana Lady Health Visitor.  
 37. " K.K. Verma Family Planning Worker  
 38. Sri M.N. Tiwari Radio Grapher  
 39. \* P.K. Kapoor "  
 40. " I.U. Khan "  
 41. " Girdhari Lal "  
 42. " Chela Ram "  
 43. " Balak Ram "  
 44. " Ashok Kumar Gupta "  
 45. " Ram Bilash "  
 46. " Heera Lal "  
 47. " Kishan Lal "  
 48. " A.K. Gautam "  
 49. " Basheeruddin "  
 50. " Rakesh Kumar I Med.Asstt.(M)  
 51. " Rakesh Kumar II "  
 52. " Naseemuddin "  
 53. Smt. Suchela Kumari " Female  
 54. Km. Saira Bano " "  
 55. Sri Kishan Gopal Ward Sahayak(M)  
 56. Sri Rishi Kumar "  
 57. Sri Ram Shankar Rastogi "  
 58. " Rudra Singh Semia "  
 59. " Gayasuddin "  
 60. Smt. Vimla Rani "  
 61. " Rameshwari "  
 62. " Rekha Devi "  
 63. Sri Shyam Sunder Gupta Med.Asstt.  
 All working Under Para Medical Staff, Ordnance  
 Clothing Factory, Shahjahanpur.

Applicants

By Advocates Shri Lalji Sinha  
 Shri S. Mehrotra

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1. Union of India represented by the Secretary, Ministry of Defence, Department of Defence Production, South Block, New Delhi.
2. The Chairman , Ordnance Factory Board, 7, Auckland Road, Calcutta-700001.
3. The General Manager, Ordnance Factory, Shahjahanpur, U.P.

Respondents

By Advocate Shri Amit Sthalekar

O R D E R ( Oral )

BY Hon'ble Mr.S.K.I. Naqvi, Member (J)

These 63 applicants with similar cause of action have sought for relief to issue direction to the respondents to pay the double over-time allowance to the applicants who are the members of the Association of the Para-Medical Staff in the Ordnance Clothing Factory, Hospital, Shahjahanpur, outside the factory premises.

2. As per applicants case, they are working in the hospital, Ordnance Clothing Factory, Shahjahanpur and they <sup>are</sup> belong to para-medical staff category and being paid over time allowance at single rate only but the similarly situated persons who are working outside the factory are paid overtime allowance at double rate and even the members of the Association when they work <sup>within</sup> ~~even~~ the premises of the factory, they get double rate over time allowances. Therefore, they claimed <sup>the</sup> double rate over time allowance on the principle of parity.

*See Naqvi ... pg.3/-*



3. The applicants have also referred a Division Bench judgment of Central Administrative Tribunal, Jabalpur with the submission that the judgment is based on similar fact and law. Two other judgments, one of Hyderabad Bench of Central Administrative Tribunal and the other of Madras Bench of Central Administrative Tribunal, have also been referred and their copies annexed.

4. The respondents have come up with the case that the applicants are not entitled to over time at double rate and the same policy is being followed in other Ordnance Factories like Kanpur, Ichapur etc. It has also been submitted that the hospital of Ordnance Clothing Factory, Shahjahanpur is situated at <sup>the</sup> outside of the factory and not within the factory premises, hence staff attached to the factory hospital are being paid over time at single rate and the staff attached to factory health clinic inside the factory are being paid overtime at double rate under the provision of Section 59 of the Factory Act, 1948.

5. Keeping in view the pleadings <sup>and</sup> ~~are~~ arguments placed from the either side, it is found that the decision taken in T.A.No.363 of 1986 (Misc.Petition No. 2628 of 1983), Central Administrative Tribunal, Jabalpur Bench, decided on 04th March, 1994, a copy of which has been annexed with the O.A., is very much applicable to the facts and circumstances of the present matter. In

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that case the principle laid down by the Madras Bench of the Tribunal in case of Orunance Factory Hospital Employees Association Vs. Union of India and Others, was accepted as guide line which runs as under;

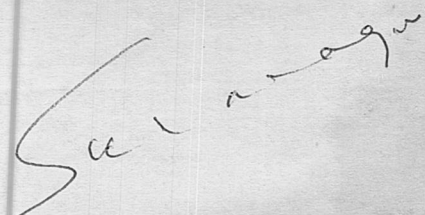
\*It appears that the question of overtime allowance has been agitating the mind of those concerned but they have not so far been able to reach a clear, logic position, nor to reconcile with, giving overtime allowance at double rate to the applicants as well. This seems to spring from the repugnance to pay any over time allowance and from the practice of yielding piecemeal to pressures. The position of the management is understandable to a certain extent. In fact overtime work by its very nature is injurious to health in the long run. The law maker has fixed the number of hours of work per day after taking into consideration the psychological possibility of the human body. Secondly overtime work also disturbs the family life and those who are subjected to overtime work frequently cannot take care of their children as they would like to do. It is, therefore, normal that overtime allowance is paid at a rate higher than the normal one. That is the principle embodied in Section 59 of the Act. Looking at the question from another angle, if a person is asked to do overtime work continuously it will tell upon his output in work and the scheme of overtime work will become self defeating. Therefore, it has to be resorted to only in exceptional circumstances. If the normal work is such as the existing staff cannot cope with it, the obvious solution is to create additional posts. But when the overtime work is assigned, it is evident that the overtime allowance should be the same to all those placed in a similar situation. In this



case, the applicants are paid double rate when they work in the dispensary and single rate when they work in the hospital. The only difference between the two places is that the first one is situated within the factory building whereas the second one is situated outside the factory building but both are within the factory premises as per the definition of the Act. The difference of treatment has no basis. On the other side, many categories of staff referred to by the applicants are paid overtime allowance at double rate even though they do not work within the factory building and even though some of them do not participate in any manner in the manufacturing process. This is a clear case of discrimination, violative of Articles 14 and 16 of the Constitution which should be put to an end.\*

6. I find myself in agreement with the conclusion reached by Madras Bench and followed by Jabalpur Bench, as referred above and hold that the relief prayed for by the applicants in the present case, deserves to be granted.

7. In the result, the O.A. is allowed and the respondents are directed to extend the double rate of over time allowance to the applicants from the date of filing the O.A. as admissible to the workers of the factory. No order as to costs.

  
Member (J)

/M.M./