

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. Sacheela Kumari	" Femala
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.

By Advocates Shri Lalji Sinha
Shri S. Mehrotra

Applicants

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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 overtime 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 ~~are~~ belong to para-medical staff category and being paid overtime 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 ~~over~~ ^{within} the premises of the factory, they get double rate overtime allowances. Therefore, they claimed the double rate overtime allowance on the principle of parity.

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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 overtime 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 the~~ ^{near} outside of the factory and not within the factory premises, hence staff attached to the factory hospital are being paid overtime 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 ~~and~~ arguments placed from the either side, it is found that the decision taken in T.A. No. 363 off 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 Ordnance 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 U.A. is allowed and the respondents are directed to extend the double rate of overtime allowance to the applicants from the date of filing the U.A. as admissible to the workers of the factory. No order as to costs.

S. M. M.

Member (J)

/ M. M. /