

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
CIRCUIT SITTING
AT NAINITAL

Original Application No. 05 of 2001

Nainital this the 25th day of October, 2002

Hon'ble Maj Gen K.K. Srivastava, Member (A)

1. Jag Mohan Singh Negi, S/o Late Bholu Singh Negi, R/o 31, Nai Basti, Guru Road, Dehra Dun.
2. Darshan Singh Rawat, S/o Shri Jittar Singh Rawat, R/o 25, Subhash Road, City Ranzer College, Dehra Dun.
3. Vijai Kumar Rai, S/o Shri Jagat Prasad Rai, R/o 79, Shiv Nagar, Defence Colony, Dehra Dun.
4. Daulat Ram S/o Shri Jeet Ram R/o Kalagarh Road Colony, Forest Survey of India, Dehra Dun.
5. Anil Kumar, S/o Shri Dishodhi Ram, R/o Kripa Ram Store, Clayment Town, Dehradun.

Applicants

By Advocates Shri K.C. Sinha
Shri A. Srivastava

Versus

1. Union of India through Secretary, Govt. of India, Ministry of Environment & Forests, Paryavaran Bhawan, C.G.O. Complex, Lodhi Road, NEW DELHI-110003.
2. The Director, Forest Survey of India, P.O. KDMIPE, Laulagarh Road, Dehra Dun-248195.

Respondents

By Advocate Shri R.C. Joshi

O R D E R (Oral)

By Hon'ble Maj Gen K.K. Srivastava, Member (A)

In this O.A. filed under Section 19 of the Administrative Tribunals Act, 1985 the applicants, five in number, have challenged the order of Ministry of Environment and Forests dated 17.04.00 and have prayed that the same be quashed, and direction be issued to the respondent no.1 to grant all benefits and privileges similar to Staff Car Drivers of the other department.

2. The facts in brief are that the applicants are working as Drivers in the respondents establishment since various dates. As per the applicants there are three types of Drivers, (i) Driver Ordinary Grade scale Rs.950-1500, (ii) Driver Grade II scale Rs.1200-1800, and (iii) Driver Grade III Rs.1300-2040. The Ministry of Personnel, Public Grievances and Pension (Department of Personnel and Training) has issued a circular dated 19.03.91 regarding over time allowances to the Central Government employees. In the said O.M.^a the rate of over time allowances (for short O.T.A.) in respect of Staff Car Driver has been mentioned. The applicants have been requesting to the respondents to grant them O.T.A. as applicable in case of Staff Car Drivers^{hr}. The grievance of the applicants is that they are not being paid O.T.A. as ^{hr} is being paid to Staff Car Drivers^{hr} of the other department.

3. Learned counsel for the applicant has submitted that the D.O.P.T. circular dated 19.03.91 is applicable in respect of the applicants also. In support of his arguments, he has invited my attention

to annexure A-10, A-11, A-12, A-14, A-15 and A-16, and has submitted that even respondent no.2 is convinced about the genuineness of the claim of the Drivers and has recommended their case to the Ministry. However, the Ministry has not considered the recommendation of the respondent no.2 and has rejected the claim of the applicant^h. Learned counsel for the applicant^h has further submitted that the applicants are working on the same pay scale which is applicable to Staff Car Drivers^h and they are also performing the same duties, therefore, they are entitled for the same privileges as is applicable in the case of Staff Car Driver. Learned counsel has placed reliance on the decision of this Tribunal by Calcutta Bench in O.A.No.196/86 and other -connected matters decided on 15.7.86.

4. Shri R.C. Joshi, learned counsel for the respondents contesting the claim of the applicant submitted that the applicants are not entitled for payment of O.T.A. as admissible to the ^hStaff Car Drivers^h under the provision^h of para-3 of D.O.P.T. Office Memorandum dated 19.03.91 because none of the applicant is appointed as Staff Car Driver. They are being paid O.T.A. as applicable to the office staff.

5. I have carefully considered the submissions of counsel for the parties and perused the record.

6. From the perusal of annexure A-13, it

appears that in the respondents organisation only the post of Driver is sanctioned. Admittedly the sanctioned strength of Drivers in the respondents establishment is 35. It has been admitted by the respondent no.2 that there is no one set of recruitment rules for the sanctioned post of Drivers in his organisation, and they are maintaining only one seniority list. The respondent no.2 has admitted that all Drivers working in his organisation are driving various types of vehicles available in the organisation such as Trucks, Mini Buses, Jeeps, Gypsy and Cars. This leaves no doubt that all the Drivers of the Organisation are performing the duties of ^{Staff Car Driver} ~~S&D~~. at some or the other time and no distinction has been there between them. It will also be unjust to deny the Driver of the Organisation the benefit and privileges of the Staff Car Driver who are driving Gypsy's and cars. I would like to observe here that on the recommendation of the Vth Pay Commission, there is no difference in the category of Staff Car Drivers and the Drivers. They have been placed in the same category and their pay scales are same. Therefore, the claim of the applicants appears to be justified and deserves to be considered rationally.

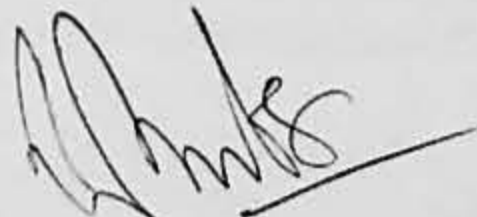
¶7. I have also perused the Judgment of this Tribunal of Calcutta Bench passed in O.A.No. 196 of 1986 alongwith connected matters decided on 15.07.86. The Tribunal has observed as under;

"We are of the opinion that there is no justification for paying over time allowance

to the applicants at rates different from those admissible to the Staff Car Drivers unless and until separate rules are framed for the Drivers of the Zoological Survey of India."

The present case is easily distinguishable as no driver is being paid differently in the respondent's establishment. However, in view of the facts that they are performing duties of Staff Car Drivers, though not on regular basis and their scale being the same that of Staff Car Drivers their cases deserve to be considered by the respondents within a specified time.

8. In the facts and circumstances and the discussions made as above, the O.A. is allowed. The impugned order dated 17.04.00 is quashed. The case is remitted back to the respondent no.2 to get the controversy resolved in consultation with the respondent no.1 within a period of 6 months in view of the observations made above. No order as to costs.


Member (A)

/M.M./