

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH : ALLAHABAD

CIVIL MISC. CONTEMPT APPLICATION NO.168 OF 2004

IN

Original Application No.1517 OF 2002
ALLAHABAD THIS THE 04TH DAY OF JANUARY,2005

HON'BLE MR. JUSTICE S. R. SINGH, VICE-CHAIRMAN
HON'BLE MR. D. R. TIWARI, MEMBER-A

1. Yogendra Prasad Gaur S/o Sri B.P. Gaur.
2. Irshad Ahmad, S/o Sri R. Ahmad.
3. Murtaza Hussain Ansari, S/o Late S.J. Ansari.
4. Ram Iqbal Yadav, S/o Late L.P. Yadav.
5. Ram Karan Gaur, S/o Late R.A. Gaur.
6. Durga Prasad Mishra, S/o Late D.N. Mishra.
7. J.K. Asthana, S/o Late Sri M.P. Asthana.
8. Tribhuvan, S/o Late Sri Ram Swarath.
9. Mansharam, S/o Sri Nankau.
10. Dilip Kumar, S/o Sri Shyam Sunder.
11. Ashok Kumar Prajapati, S/o Sri Anjori Lal.
12. Mohammed Tahir, S/o Late Sri Abu Mohammed.
13. Gajraj Yadav, S/o Late R.S. Yadav.
14. Jamshed Hussain Khan, S/o Sri J.K. Hussain Khan.
15. Satay Prakash Singh, S/o Late Sri R.A. Singh.
16. Raj Kumar, S/o Late Sri Sohan Lal.
17. Ahmad Ali, S/o Sri R.U. Ali.
18. Om Prakash, S/o Late Sri Mata Din.
19. Phool Chand Gupta, S/o Late Dhurai.
20. Abdul Rahim, S/o Mohd. Kurban.

All (1 to 20) are working as Khalasi in scale of

Ref

Rs. 750-940/2550-3200 under the Section Engineer
(Electrical), Air Conditioned Coach, N.E. Railway,
Gorakhpur.

21. Jamil Ahmad S/o Late Sri Khair Ullah.
22. Vishwanath Prasad, S/o Late Sri M.D. Prasad.
23. Jagdish Sharma, S/o Late Sri R.A. Sharma.
24. Om Prakash-II, S/o Late Sri Ram Surat.
25. Laxmi Dutta Bhatta, S/o Late Sri T. Bhatta.
26. Kripa Narayan Dubey, S/o Late Sri D.R. Dubey.
27. Jagjivan Lal Srivastava, S/o Sri V.P. Srivastava.
28. Rama Kant Tiwari, S/o Late Kaushalanand.
29. Shamsul Haq, S/o Mohd. Bux.
30. Sri Kant Pandey, S/o Late R.K. Pandey.
31. Suresh Pratap, S/o Sri Ramagya.
32. Jiterdra Nath, S/o Late Sri Ram Nath.
33. Om Shankar, S/o Late Sri Sirpat.
34. Shiv Prakash Shukla, S/o Late Sri D.N. Shukla.
35. Jagdish, S/o Sri Shital.
36. Suresh Mahto, S/o Late Sri Fudane Mahto.
37. Jawahar Lal, S/o Sri Kedar Nath.
38. Shyam Babu Sharma, S/o Late Sri Jay Nath Sharma.
39. Ram Briksha, S/o Sri Sukkhu.
40. Prem, S/o Late Sri Ram Dhari.
41. Ram Narayan Yadav, S/o Late Sri Rishi Dev Yadav.
42. Chhavi Lal, S/o Late Sri Rishi Dev Yadav.
43. Kanta, S/o Sri Ram Pati.
44. Ram Marakh, S/o Late Sri Shiv Mangal.
45. Ram Chandra Mani, S/o Sri Jieut.
46. Krishna Prasad, S/o Late Sri Hira Lal.

Ref

47. Ram Darash-II, S/o Sri Maha Deo.
48. Sapan Ram Chaudhary, S/o Late Sri P.R. Chaudhary.
49. Swami Nath Pandey, S/o Late Sri R.K. Pandey.
50. Ram Dayal Yadav, S/o Late Sri Bhikari Yadav.
51. Arun Kumar, S/o Late Sri Ram Sunder.
52. Rajesh Kumar Mishra, S/o Late Sri D.D. Mishra.
53. Gajraj, S/o Sri Mewa Lal.
54. Khumulli, S/o Late Sri Ram Gulam,
55. J.K. Rao, S/o Late Sri R.K. Rao.
56. Ram Badan Tiwari S/o Late Sri Satya Deo Tiwari.
57. Shiv Dhan, S/o Sri Ram Suharat.
58. Shiv Shankar-II, S/o Late Sri Arjun.
59. Anil Kumar Dubey, S/o Sri R.S. Dubey.
60. Ganesh Yadav, S/o Sri R.B. Yadav.
61. Ravindra Ram Tripathi, S/o Sri J.R. Pathak.
62. R.S. Pathak, S/o Sri S. Prasad.
63. Ram Prahlad, S/o Sri S. Prasad.

All (21 to 63) are working as Khalasi Helper in scale of Rs.800-1150/1650-4000 under the Section Engineer (Electrical), Air Conditioned Coach, N.E. Railway, Gorakhpur.

64. Chandra Mani, S/o Sri Jieut.
65. Maushal Kishore, S/o Sri Babu Ram.
66. Daya Nath, S/o Sri Mukhya Nath.
67. Ayodhya Singh II, S/o Late Sri Ganga Singh.
68. S.K. Sinha, S/o Sri S.N. Sinha.
69. Madan Gopal, S/o Sri Bechu Prasad.
70. Jahir Ahmad, S/o Late Sri All Ahmad.
71. Kailash Nath Mishra-I, S/o Late Sri Triveni Prasad.
72. Dayal Prasad, S/o Late Sri Ghurahu Prasad.

Reg

73. Alok Kumar Das, S/o Late Sri S.C. Das.
74. B.N. Rai, S/o Sri L.N. Rai.
75. Nand Lal S/o Late Sri Vansh Raj.
76. Benu Gopal Vashno, S/o Sri B.B. Vashno.
77. Mohd. Makki, S/o Late Mohd. Safi.
78. Vinod Kumar Singh, S/o V.P. Singh.
79. Ajit Kumar Dwivedi, S/o J.N. Dwivedi.
80. Gaya Prasad, S/i Sri Baldeo Prasad.
81. Shiv Shankar Prasad-I, S/o Late Sri Sita Ram.
82. Vinda Prasad, S/o Late Sri Trivni.
83. Nakehhed S/o Late Sri Jagannath.
84. Sanjay Kumar Srivastava, S/o Sri K.P. Srivastava.
85. Chandira Prasad Ram, S/o Sri Shobha Ram.
86. Kripa Shankar Shukla, S/o Late R.K. Shukla.
87. Ram Bachan Pandey, S/o Late Sri S.N. Pandey.
88. Sarvda Prasad, S/o Late S. Lal.
89. Surendra Prasad Pandey, S/o Late Sri T.P. Shukla.
90. Satya Ram Yadav, S/o Late Sri S.L. Yadav.
91. Gorakh Nath Chaudhary, S/o Late Sri Yamuna Chaudhary.
92. Shuk Lal, S/o Late Raja Ram.
93. Ram Deo Khatik, S/o Late Sri R.M. Khatik.
94. R.K. Rahi, S/o Sri D.S. Pandey.
95. Sudhir Kumar Srivastava, S/o Sri P.L. Srivastava.
96. Pradeep Kumar Mishra, S/o Sri L.L. Mishra.
97. Chhatrapal, S/o Sri K. Prasad.
98. Wasim, S/o Late Mohd. Rafiq.
99. Bholu Ram, S/o Late Sri D. Ram.
100. Krishna Pankaj, S/o Sri Indra Kamal.
101. Jagdamba Singh, S/o Sri S.M. Singh.

Rafiq

102. Arun Kumar Arora, S/o Sri S.L. Arora.
103. Bhagwati Prasad Chaudhary, S/o Sri Tribhuwan Chaudhary.
104. Anil Mani Tripathi, S/o Sri N.M. Tripathi.
All working as A.C.C.I., Grade-II in scale of
Rs. 4000-6000 under the Section Engineer (Electrical), X.
Air Conditioned Coach, N.E. Rly, Gorakhpur.
105. P.P. Srivastava, S/o Late Sri N.P. Srivastava.
106. Tameshwar, S/o Sri Baleshwar Sharma.
107. Hari Ram-I, S/o Late Sukh Deo.
108. Krishna Mohan Singh, S/o Late Sri R.C. Singh.
109. Ratnesh Lal Srivastava, S/o Late Sri Harish Chandra.
110. Ali Raja, S/o Sri Ismail.
111. Dinesh Lal Srivastava, S/o Sri Suresh Lal.
112. Rajendra Prasad, S/o Late Sri Nabu Lal.
113. Ravindra Nath Dubey, S/o Late Sri S.R. Dubey.
114. Hari Prasad Yadav, S/o Late Sri Moti Lal Yadav.
115. Vijay Pratap, S/o Late Sri Ganga Prasad.
116. Rajpati Yadav, S/o Late Sri Hardeo Yadav.
117. Bholu Nath Shukla, S/o Late Sri Vishwanath.
118. Lal Chand, S/o Sri Vipat.
119. Ram Nath, S/o Late Sri Ram Das.
120. Rashid Ahmad, S/o Sri Ramjan Ali.
121. Gayasuddin, S/o Late Sri Din Mohammad.
122. Prabhu Nath, S/o Late Sri Jieut.
123. Hari Ram-III, S/o Sri Surya Narayan.
124. Prakash, S/o Late Sri Chandi Prasad.
125. Hari Ram-II, S/o Late Sri Ram Lagan.
126. Vidya Prasad Mishra, S/o Late Sri V. Mishra.
127. Dwarika Prasad, S/o Late Sri Shital Din.

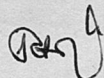
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128. Ashik Ali, S/o Late Jumrati.
129. Sharif Ahmad, S/o Late Mohd. Ismail Khan.
130. J.N. Tripathi, S/o Late Sri L.P. Tripathi.
131. Rehman, S/o Late Sri Rehmat.
132. Shiv Nath Prasad, S/o Sri T. Prasad.
133. Ram Daras, S/o Sri Shyam.
134. Harish Chand, S/o Sri Santu Prasad.
135. Ram Kishan Lal, S/o Late Sri Ram Gulam.
136. Shahabuddin, S/o Late Sri A. Hakim.
137. Raj Kumar Rai, S/o Late Sri R.N. Rai.
138. Pankaj Kumar Kar, S/o Late Sri K.N. Kar.
139. Om Prakash, S/o Late Sri S. Prasad.
140. Munib, S/o Late Sri Ram Belas.
141. Uma Shankar Pandey, S/o Late Sri K.N. Pandey.
142. L.F. Siddique, S/o Mohd. Nasim.
143. Daya Nand, S/o Sri Ram Kishore.
144. Prem Narain Mishra, S/o Sri R.B. Mishra.
145. Anurudh Kumar, S/o Sri R. Pyare.
146. Kedar Nath Yadav, S/o Sri Komal Yadav.

All are working as A.C.C.I. Grade-I in scale of
Rs. 4500-7000 under the section Engineer (Electrical)
Air Conditioned Coach, N.E. Railway, Gorakhpur.

147. Ram Bricchh, S/o Sri Ram Subhag.
148. Kishori Lal, S/o Sri Durjan Das.
149. R.K. Verma, S/o Sri Jeet Narain.
150. Shambhoo Nath Pandey, S/o Sri C.N. Pandey
151. Pervej Ahmed, S/o Sri S.U. Varsi.
152. Iqbal Ahmad, S/o Sri Nishar Ahmad.
153. Pradeep Kumar Ganguli, S/o R.P. Ganguli.

All are working as Master Crafts Man in scale of
Rs. 5000-8000 under the section Engineer (Electrical),



Air Conditioned Coach, N.E. Rly, Gorakhpur.

154. Ramji Kushwaha, S/o Sri R.D. Kushwaha.
155. Radhey Shyam, S/o Sri Kariya.
156. Girja Shankar, S/o Late Sri Shiv Kumar.
157. Badohah Chaudhary, S/o Sri P.S. Chaudhary.
158. Suresh Kumar, S/o Late Sri Jagdeo Prasad.
159. Ram Prasad II, S/o Late Sri Sunder.
160. Niraj Kumar Khare, S/o Late Sri K.J. Khare.

All are working as Khalasi in scale of Rs. 750-940/25

2550-3200 under the section Engineer (Electrical)
Air Conditioned Coach, N.E. Railway, Gorakhpur.

161. Lalji, S/o Sri Shyam Lal.
162. Ram Bali-II, S/o Sri Kishore.
163. Mata Prasad, S/o Late Sri Gaya Prasad.
164. Ram Shagar, S/o Sri Ram Das.
165. Jai Kishun, S/o Late Sri Kauleshwar.
166. Pancham Prasad, S/o Late Sri Gaya Prasad.
167. Ram Shankar, S/o Late Sri Jay Ram.
168. Ramesh Kumar Verma, S/o Late Sri R.A. Verma.
169. Sher Ali, S/o Sri Mohar Ali.
170. Ganesh Chand Srivastava, S/o Sri Keshari Narayan.

All are working as Khalasi Helper in scale of
Rs. 800-1150/ 2650-4000 under the section Engineer
(Electrical), Air Conditioned Coach, N.E. Rly,
Gorakhpur.

171. N.K. Singh, S/o Late Sri R.D. Singh.
172. Rajesh Kumar Sharma, S/o Late Sri G.P. Sharma.
173. Ravindra Kumar Mishra, S/o Late Sri G.D. Mishra.
174. Daya Ram, S/o Sri Bhagirath.
175. Rajendra Yadav, S/o Sri R.S. Yadav.
176. Shiv Narayan Yadav, S/o Sri R.P. Yadav.
177. Arun Prakash Tiwari, S/o Sri G.P. Tiwari.
178. Gorakh Nath Yadav, S/o Sri R.N. Yadav.

RG

179. Suresh Chandra Chaudhary, S/o Late Sri K. Chaudhary.
180. Manish Kumar Srivastava, S/o Late Sri B.D. Srivastava.
181. Krishna Nath Mishra II, S/o Late Sri Lalman Mishra.
182. Safir Ahmad, S/o Late Sri Sagir Ahmad.
183. Ram Naresh, S/o Late Sri Ram Sewak.
184. Puranmasi, S/o Sri Jeit.
185. Ram Nayan, S/o Sri Asharfi.
186. Sugriv Yadav, S/o Sri Ram Adharey.
187. Brijesh Chandra, S/o Late Sri Suresh Chand.
188. Ram Priti Singh, S/o Late Sri R.L. Singh.
189. Ram Lal, S/o Late Sri Nankau.
190. Jay Prakash, S/o Late Sri Mast Ram.
191. Chandra Deo, S/o Sri Baljor.
192. Mohd. Kalimillah, S/o Late Sri Naimullah.
193. Abdul Kalam, S/o Sri Khewayi.
194. Ram Bhaju, S/o Sri Ram Lal.
195. Sushil Kumar, S/o Sri K.C. Hind Sewak.
196. Adhai Sharan Srivastava, S/o S.S. Srivastava.
197. Abhai Sharan Srivastava, S/o S.S. Srivastava.

All are working as A.C.C.I. Grade III in scale of
Rs. 950-1500/3050-4590 under the Section Engineer
(Electrical), Air Conditioned Coach, N.E. Railway,
Gorakhpur.

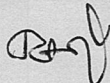
R/o-C/o Sri U.C. Shukla, Shahpur, P.O.-Geeta Vatika,
District-Gorakhpur.

(By Advocate Sri B. Tewari) Applicants.
Versus

Sri Ravilesh Kumar,
Divisional Railway Manager (Electrical),
N.E. Railway, Lucknow.

. Respondent

(By Advocate Shri A.K. Gaur)



_O_R_D_E_R_

HON'BLE MR. JUSTICE S. R. SINGH, VICE-CHAIRMAN

Heard Shri B. Tewari, counsel for the applicant, Shri A.K. Gaur, counsel for the respondents and perused the pleadings.

2. O.A. No.1517/2002 instituted by Shri Jata Shankar Pandey and 64 others; O.A. No.1518/2002 instituted by Ram Jatan Prasad and 40 Others; O.A. No.1519/2002 instituted by Ayodhya Singh and 49 Others; O.A. No.1520/2002 instituted by Ram Prasad Pandey and 17 Others and O.A. No.1521/2002 instituted by Subhash Chandra and 27 Others against Union of India through the General Manager, N.E. Rly, Gorakhpur, Divisional Rail Manager (E) N.E. Rly, Lucknow and Chief Electrical Engineer, N.E. Rly, Gorakhpur ^{prayed} ~~are~~ for issuance of a direction to the respondents to give the applicants' overtime allowance, if they had worked beyond 96 hours in ^a fortnight. The O.As aforestated came to be disposed of by a composite order dated 20.12.2002 with a direction to the Divisional Railway Manager(E), to consider and decide the representation of the applicants by a reasoned and speaking order within a period of three months and to pay amount of overtime, if they ^{were} ~~are~~ found entitled for the same.

3. The Contempt Petition has been instituted with the allegation that the direction given by the Tribunal has not been complied with. The respondents have filed counter affidavit annexing thereto an order dated

RDG

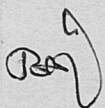
08.12.2003 whereby the representation dated 08.05.2002, 06.07.2002 and 26.08.2002 have been considered and rejected

The order dated 08.12.2003 passed by Divisional Railway Manager(E), Lucknow reads as under:-

"The Hon'ble CAT/ALD vide their order dated 20.12.2002 directed undersigned to dispose of applicant's representation by passing speaking order. Hon'ble CAT/ALD while deciding the above OA, relied upon the decision given by Hon'ble Supreme Court in case of Sri Abid Hussain and another versus UOI & Others decided on 22.01.87 in which apex court has directed "Union of India and Railway Administration to pay with effect from July'01,1984 the overtime allowance to the Air condition coach incharges-attendants working in the Northern Railway on the same basis on which the Air condition coach incharges-attendants in the other three Railways referred to above, are paid."

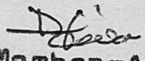
A reference was made to Railway Board and Railway Board vide their letter No.E(LL)2003/HER dated 08.09.03 advised "Eastern, Western and Northern Railways has advised that rostered hours for AC coach attendants is 104 hours which implies 96 hours plus time for preparatory/complementary work. The overtime paid from 104 hours to 108 hours is 1.5 times and beyond 108 hours double overtime is paid. The duty hours started from 'signing on' to 'signing off' and 'signing on' to 'signing off' is counted from one hour before and one hour after the arrival of the train."

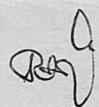
In the light of above advise/information receive from Railway Board it is not possible for Railway Administration to pay overtime allowance beyond 96 roaster hours excluding the preparatory/complementary works in two weeks. It is pointed out that our Railway is also following same practice as intimated by Railway Board and followed by other Railways, Therefore, your claim for overtime allowance and representation is rejected."



4. Learned counsel for the applicants has contended that the respondents have committed contempt of Court ⁱⁿ that they have paid overtime allowance to only five of the applicants of O.A. No.1517/2002 while others have been denied overtime allowance. We are afraid, the plea of contempt raised on the ground that five persons have been paid overtime allowance while others ^{have} been denied is no ground to hold that the respondents have wilfully and deliberately failed to comply with the order passed by the Tribunal. As stated (Supra) the direction was to consider the representation and pay overtime allowance if the applicant's ^{were} ~~are~~ found entitled to receive overtime allowance. By order dated 8.12.2003 the applicants have been held not entitled to overtime allowance. If aggrieved against the order dated 8.12.03 the remedy open to the applicant is to challenge the said order by means of O.A. The contempt petition, in our opinion, is totally mis-conceived and is liable to be dismissed. The view we are taking find support with the judgment of Hon'ble Supreme Court in Lalith Mathur Vs. L. Maheswara (2000) 10 SCC 285.

5. Accordingly the contempt petition is dismissed. Notices are discharged.


Member-A


Vice-Chairman

/ns/