

OPEN COURT**CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH
ALLAHABAD**(THIS THE 30th DAY OF JULY, 2009)PRESENT :**HON'BLE MR. JUSTICE A.K. YOG, MEMBER-J****ORIGINAL APPLICATION NO. 654 OF 2004
(U/s, 19 Administrative Tribunal Act.1985)**

1. Keshav Dayal S/o Late Sharda Prasad,
Aged about 69 years, resident of Laxmi Niwas, Gokula Nand
Marg, Mohalla-Sipah, District-Jaunpur.
2. S.N. Saigal S/o Late S.B.Saigal, aged about 62 years,
resident of 67, GHI, Railway Quarter, 5th, Anenue, Smith
Road, Allahabad.
3. K.C.Srivastava S/o Late S.D.Srivastav, Guard/Special, C/o
Station Manager, North Central Railway, Kanpur.

.....Applicants

By Advocate : Shri S.S. Sharma

Versus


1. Union of India, through the General Manger, North Central
Railway, Head Quarter Office, Allahabad.
2. The Divisional Railway Manager, North Central Railway,
D.R.M. Office, Nawab Yusuf Road, Allahabad.

..... Respondents

By Advocate : Shri P. Mathur

ORDER**(DELIVERED BY: JUSTICE A. K. YOG- MEMBER-JUDICIAL)**

1. Heard Shri S.S. Sharma, learned counsel for the applicant
and Shri P. Mathur, learned counsel for respondent nos.1 and 2.
Perused the pleadings and the documents on record.



2. Three Applicants (Keshav Dayal, S.N. Saigal and K.C. Srivastava) have filed the above OA and claimed following reliefs:-

".....In view of the facts mentioned in aforesaid paras the applicants pray for the following reliefs:-

- a. *That the Hon'ble Tribunal may graciously be pleased to direct the respondents to make payment of Over Time Wages to the applicants for their excess working hours on two Departmental Material Trains, during the period as mentioned against para 4.3 and the amount of Over Time Wages as mentioned against Para 4.11 of this Original Application.*
- b. *That the Hon'ble Tribunal may graciously be pleased to allow interest @ 18% per annum compounded annually on the amount of Over Time Wages as due to the applicants from the date it is due till it is paid to them.*
- c. *That the Hon'ble Tribunal may graciously be pleased to direct the respondents to pay compensation/damage to the applicants One Lakh each or as may decide the Hon'ble Tribunal.*
- d. *That the Hon'ble Tribunal may graciously be pleased to take penal action may be pleased to pass strict structures against the Officers responsible for submitting fake and manipulated report every time even after clear direction by the Hon'ble Tribunal and rejecting the claim of applicants for payment of over time wages to them exactly on the same grounds already rejected by the Hon'ble Tribunal.*
- e. *That the Hon'ble Tribunal may graciously be pleased to allow heavy cost of filing application and legal expenses to the applicants.*
- f. *That Hon'ble Tribunal may graciously be pleased to pass any other order or direction as may deem fit and proper under the facts and circumstances of the case in the interest of justice."*

3. Perusal of the impugned order itself shows that the Respondent No. 3 has decided Representation in pursuance to earlier final order of the Tribunal dated 21.3.2001 in OA No.94/97; relevant para 6 of this order (containing operative portion) reads:-

"It appears that the committee has given its recommendation without considering that the claim made by the applicants for kilometerage allowance and night duty allowance had already been found acceptable and been paid by the respondents. These have a bearing on applicants claim for overtime. If they have given an opportunity to the applicants to examine this to them, the report of the officers could have been different. In the

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circumstances I set-aside the order of G.M. (Annexure-I) and report of the committee of officers which examined the overtime claim of the applicants. The respondents are directed to hear the applicants, consider the OP/T-112 from according to which applicants have been given kilometerage and night duty allowance and then take the decision. This shall be done within period of three months from the date of receipt a copy of this order.

It is to be noted that by means of order dated 30.11.1996, Annexure A-11, refusing claim of the applicant was rejected by the respondents and hence they had filed OA No. 94/97.

4. According to the applicant, they submitted their claim in Form G164 (as per Tribunal's aforequoted order in OA No. 94/97).

For convenience para 4.11 in this respect is reproduced below:-

4.11. That according to the facts as stated afore it is proved beyond any doubt that the applicants had worked/performed their duties as DMTs for excess working hours than the prescribed rostered duty hours duly verified/accepted/admitted by the concerned authorities while arranging payment of Kilometerage Allowance and Night Duty Allowance to the applicants for their working during the period as mentioned against Para 4.3 afore. Therefore, the applicants were fully entitled for payment of Over Time Wages during the period as mentioned afore as under:-

S.No.	Name of the Applicants	Amount of Over Time due to the applicants.
	S/Shri	
1.	Keshav Dayal	Rs. 67,031.74
2.	S.N. Saigal	Rs. 58,288.01
3.	K.C. Srivastava	Rs. 1,27,296.97

A copy of statement showing details of amount of claim of Over Time of the applicants as mentioned afore are annexed herewith and marked as Annexure-A-5 A-6 & A-7 (Compilation No.II) to this application.

5. Claims of over-time in question by the applicants, on the basis of Form G164 (referred to above) have been rejected vide impugned order dated 5.2.2004 (Annexure A-1) which refers to the Railway Board letter/circular dated 14.3.1975 which required

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'Guards' "to perform a minimum of 104 statutory hours of duty in a fortnight.....", working hours of DMT (Departmental Material Train) are Sun-rise to Sun-set and only in exceptional cases on issuing requisite certificate they are required to do emergency in night (under specific order of competent authority); double manned (Guards) arrangement of 8 hours and other aspects of period of DMT (Department Material Train) in night hours (22 to 6 hrs.). But certificate/memo of PWI concerned for working in night have not been submitted, etc. but did not deal with the case of individual claimants separately to ascertain exact ground of denial in case of individual claimant. The concluding para of the impugned order reads:-

"From the perusal of all the records available in this regards, relevant documents, photo copies of documents submitted by the applicants during the enquiry and after examining the whole issue in details keeping in view of extent rules and in light of directions given by Hon'ble Court in this regard, it has been discussed in detail, the committee came to the conclusion that the claim of the applicant is not admissible under the extent rules".

6. It is not possible as to which of the applicant failed to produce the certificate etc or under which Rule or Board order ones claim rejected.

7. Learned counsel for the Applicant, refers to 'Statement of Account' in support of claim of 'over time' submitted by one of the applicant (Keshav Dayal) for the period 13.5.1984 to 11.4.1987 (Annexure A-5). Shri P. Mathur, learned counsel for the respondents on the other hand refers to the claim submitted by the applicant as per statement (filed as Annexure A-20) to show that therein claim is for the period 21.6.1984 to 21.7.1984 and argued

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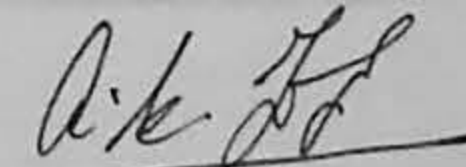
that claim made in Annexure A-5 and A-20 differ with respect to the period..

8. These are factual matters. Apart from it the pleadings submitted by the applicant also do not specify details/particulars to show that facts stated in the impugned order are incorrect and if so, in what respect.

9. In view of it and in the ends of justice it is expedient that the authorities may pass fresh orders regarding over time night allowance of the applicant by passing separate orders in respect of each of the applicant in the light of the observations made above.

10. In view of the above, impugned order is set aside, the applicants are required to file a certified copy of this order before concerned competent authority within a period of three weeks from today and said authority i.e. respondent no.2/Divisional Railway Manager, North Central Railway Allahabad shall pass fresh orders in the light of the observations made above while deciding claim of the Applicants in in pursuance to the direction given by the Tribunal in its order dated 21.3.2001/Annexure A-22 in OA No.94/97 Keshav Dayal and Others Versus U.O.I. and Others referred to above within three months of receipt of certified copy of this order.

11. OA stands finally disposed of subject to ^{an/ke an} above observations/directions. No Costs.


Member-J

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