



**Central Administrative Tribunal
Jammu Bench, Jammu**

T.A. No.2523/2020
(SWP No. 2618/2016)

Monday, this the 10th day of May, 2021

(Through Video Conferencing)

Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
Hon'ble Mr. Mohd. Jamshed, Member (A)

1. Raj Kumar, Aged 48 years
S/o Shri Vakil Chand
R/o Village Gharai, Tehsil R.S. Pura
District Jammu.
2. Pawan Kumar, Aged 27 years
S/o Shri Krishan Lal
D/o Dori, Tehsil Akhnoor
District Jammu.
3. Suresh Kumar, Aged 26 years
S/o Shri Mani Ram
R/o Gurah Jagir
Tehsil Akhnoor, District Jammu.
4. Vir Vikrant Singh, Aged 26 years
S/o Shri Darshan Singh
R/o Chorli, Tehsil Bisnah
District Jammu.
5. Vijay Singh, Aged 32 years
S/o Shri Lahori Singh
R/o Raipur, Satwari
Tehsil and District Jammu.

...Applicants

(Mr. Rahul Sharma, Advocate)

VERSUS

1. State of Jammu and Kashmir
Through its Commissioner-cum-Secretary to
Government
Youth & Services Department
Civil Secretariat, Jammu.
2. State of Jammu and Kashmir
General Administrative Department
Through its Commissioner Secretary
Civil Secretariat, Jammu.
3. N.C.C. Group Hqrs.
82, A/D, Gandhi Nagar
Jammu.
4. Commanding Office
2, J&K Boy BN NCC
Jammu.
5. Commanding Office
2, J&K Girl BN NCC Jammu.
6. Commanding Officer
1, Armed Sqd., NCC.
7. Director General
National Cadet Headquarters
DGNCC, Delhi.
8. U.O.I. through
Ministry of Personnel, Public Grievances & Pension
Deptt. Of Personnel & Training
New Delhi.

...Respondents

(Mr. Sudesh Magotra, Deputy Advocate General for R-1 & 2
and Mr. Raghu Mehta, Senior CGSC for R-3 to 8)

ORDER (ORAL)**Mr. Justice L. Narasimha Reddy:**

The applicants claim to have been appointed as Chowkidars by the Group Commander of National Cadet Corps (NCC) of Jammu area, at different points of time. They filed SWP No. 2618/2016 before the Hon'ble High Court of Jammu & Kashmir, claiming the relief in the form of a direction to the respondents to pay overtime allowances/extra-compensation or any additional incentive. The applicants pleaded that they were required to work for more than stipulated office hours and on many occasions, they worked continuously up to 18 hours, i.e., from 3.00 PM to 9.00 AM on the next day.

2. The respondent Nos.1 and 2 on the one hand and the respondent Nos.3 to 8 on the other hand, filed separate counter affidavits. The respondent Nos.3 to 8 stated that the very appointments of the applicants were as Chowkidars and their duty is not active, but to remain in the premises during night hours. It is also stated that they were provided with the facility of rooms and beds and that no provision of law, as regards duty hours was violated.

Item No. 2



3. The respondent Nos.1 and 2 filed a counter affidavit stating that the appointments in the NCC are under the Union of India and the State Government has nothing to do with it.

4. The SWP has since been transferred to the Tribunal in view of the reorganisation of the State of Jammu & Kashmir and renumbered as TA No. 2523/2020.

5. Today, we heard Mr. Rahul Sharma, learned counsel for applicants and Mr. Sudesh Magotra, learned Deputy Advocate General for respondent Nos.1 & 2 and Mr. Raghu Mehta, learned Senior Central Government Standing Counsel for respondent Nos.3 to 8.

6. In the T.A., the order of appointment issued to the 1st applicant is filed. It is stated that he is an ex-serviceman. It is somewhat curious to note that the NCC issued the order of appointment by stating that the service would be governed by the Service Regulations of the State of Jammu & Kashmir. The NCC is completely under the Ministry of Defence and it is just un-understandable as to how the post of Chowkidar is governed by the Rules of the State Government.

Item No. 2



7. Be that as it may, the applicants did not mention any duty chart or the specific orders, requiring them to discharge duties over and above the scheduled duty hours. The post of Chowkidar is somewhat typical. He does not discharge any active duties, but is required to be present in the premises after office hours to watch and ward the premises during night hours. The occasion for the Tribunal to direct the respondents to pay any extra charges or remuneration would arise, if only it is established that the applicants were required by the respective Heads of the Department to work beyond the scheduled hours of duties. As observed earlier, no such material is placed before us.

8. Therefore, we do not find any merit in the T.A. and accordingly, the same is dismissed. There shall be no order as to costs.

(Mohd. Jamshed)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

May 10, 2021
/sunil/jyoti/dsn/