

(A)
1

RESERVED

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD

Registration T.A.No.4 of 1987.

(Civil Appeal No.243 of 1985 of the)
(Court of District Judge, Bulandshahar

Head Postmaster Bulandshahar
and Others. Defendants-Appellants

Versus

Rajiv Singh and Others..... Plaintiffs-Respondents

Hon. Mr. Justice K. Nath, V.C.

Hon. Mr. K. Obayya, Member (A)

(By Hon. Mr. Justice K. Nath, V.C.)

Regular Civil Suit No.10/85 was filed by the plaintiffs-respondents against the defendants-appellants in the Court of Munsif I Bulandshahar for recovery of Rs.1920-45 as overtime allowance. The Suit was decreed for Rs.1905-90. The defendants-appellants filed the Civil Appeal described above which is before us under Section 29 of the Administrative Tribunals Act, 1985.

2. Plaintiffs-respondents 1 to 5 are Upper Division Clerks while 6 and 7 are Lower Division Clerks in the Savings Bank Central Organization at Head Post Office, Bulandshahar. Defendant -appellant No.1 Head Postmaster Bulandshahar was the Controlling Authority; Defendant-Appellant No.2, Senior Supervisor used to take overtime work.

3. In para 5 of the plaint details of hours of overtime work done individually by each of the plaintiffs-respondents between November, 1983 and January, 1984 are set out. The total number of hours of overtime work is 396 payable @ Rs.4.85 per hour amounting to the claimed amount of Rs.1920-45.

4. The plaintiffs-respondents' case is that orders for doing work overtime used to be issued in writing as well as orally by defendants-appellants No.1 & 2 and in compliance of those orders the plaintiffs-respondents had worked but the defendants-appellants did not make the payment. After service of Notice under Section 80, Civil Procedure Code the Suit was filed. In the Written Statement of Defendant-Appellant No.2, the Senior Supervisor, it was stated that the defendant-appellant No.1, the Postmaster Bulandshahar was the competent authority to pass orders for overtime allowance (O.T.A.) duty and the staff used to do O.T.A. work on the same day as a routine practice in anticipation of the orders of the defendant-appellant No.1 in the proposal register. It was added that while the proposal register used to be received back from the Postmaster some time later on the same day, his written orders used to be passed after a few days and sometimes verbal orders were also passed to be followed by written orders.

5. In another written statement filed on behalf of the remaining defendants-appellants, it was stated that the plaintiffs-respondents had done overtime work in aggregate for only $68\frac{1}{2}$ hours between November, 1983 and January, 1984 as detailed in the written statement in para 5. It was stated that even for that period the plaintiffs-respondents had not submitted their bills for Rs.328-35 and therefore payment could not be made. The rate of overtime payment i.e. Rs.4.85 per hour is admitted. But it is specifically stated that the plaintiffs-respondents had not worked overtime for 396 hours as claimed by them.

(A)
3

6. The plaintiffs-respondents examined K.L.Gautam, the Senior Supervisor who is defendant-appellant No.2, one of themselves viz. plaintiff No.3 Zaheer Uddin as PW.2 and Supervisor Savings Bank Control Organization R.S.Verma, PW.3. R.S.Verma used to maintain the O.T.A. Proposal Register and with the aid of that Register he had deposed that the plaintiffs-respondents had worked for 393 hours worth Rs.1905-90 during the period in question. The plaintiffs-respondents have also filed some papers. The defendants-appellants examined DW.1 K.L.Qadri, the Postmaster Balandshahar viz. defendant-appellant No.1.

7. The learned Munsif mainly relying upon the testimony of PW.1 K.L.Gautam and PW.3 R.S.Verma held that the plaintiffs-respondents had done overtime work for 393 hours and therefore decreed the Suit partly i.e. for Rs.1905-90 which amount the learned Munsif had bifurcated individually for the plaintiffs-respondents to get.

8. The learned counsel for the defendants-appellants has urged that the learned Munsif fell into a patent error inasmuch as he did not consider the evidence of DW.1 K.L.Qadri. This contention is absolutely correct and therefore the judgement of the learned Munsif suffers from a basic infirmity. However, we may examine the evidence in totality and arrive at our findings.

9. Two questions arise: (i) Whether the plaintiffs-respondents had actually worked overtime for 393 hours and (ii) Whether appropriate authority for working overtime had been granted in order to enable the plaintiffs-respondents to get payment for the overtime work.

~~AMG~~

10. The statements of PW.1 K.L.Gautam, the Senior Supervisor and PW.3 R.S.Verma, Supervisor show that particulars of excess work on a particular day used to be entered in a O.T.A. proposal register checked by PW.3. The proposal register used to be submitted daily to the Postmaster for sanction of overtime in advance and sometimes the register used to be returned daily before 6.00 P.M. with the sanction.

11. K.L.Gautam however further stated that sometimes the proposal register were put before him on the second or third day without sanction orders and then the staff would tell him that the Postmaster had orally pressed for completing the work for which orders would issue later. He added that not satisfied with the version of the staff he used to enquire from the Postmaster who used to confirm having asked the staff orally to complete overtime work for which sanction orders would be passed later on.

12. However, PW.1 K.L.Gautam admitted that it was necessary to obtain written sanction of the Postmaster before doing overtime work. He admitted that no noting of oral orders were ever made; PW.3 R.S.Verma admitted that the proposal register contained no material to show that oral orders may have been given followed by written orders. However, K.L.Gautam, PW.1 stated that the Postmaster had stated orally in his presence that overtime work may be given to the plaintiffs. Of course he could not remember on what dates the Postmaster had given the oral orders; but the question of probability should be considered from the angle of Gautam's statement that when he used to find the proposal register without sanction on the second or third day the staff used to tell him

(A2)
S

- 5 -

that the Postmaster had orally pressed for completing the work on which the orders would be issued later although the witness was not satisfied with the version of the staff. If under the normal rules, sanction for doing overtime work had to be obtained in advance and the proposal register alongwith the proposals used to be sent to the Postmaster, there is no reason why the Postmaster should not have taken a decision then and there in writing and should have just orally asked the staff to complete the work overtime on which orders later. ^w would issue. Either the proposal register may not have been placed before the Postmaster at all, or if it was so placed he would have normally passed the appropriate orders. It is difficult to believe the version of the plaintiff-respondents witnesses that even when the proposal registers were placed before the Postmaster he chose only to give oral directions. Indeed, it is admitted by K.L.Gautam that in matters of O.T.A. prior to November, 1983 the orders were in writing. Even if for any reason orders could not be obtained in writing atleast a noting should have been made by the Supervisor PW.3 or Senior Supervisor PW.1 that the Postmaster had given oral orders. Indeed, plaintiff-respondent No.3 Zaheer Uddin PW.2 while admitting that before November, 1983 orders for overtime work were all in writing, admitted that the plaintiffs-respondents had no proof that before November, 1983 ^w overtime work was done on oral orders also. He admitted that performance of overtime work without prior sanction is contrary to departmental rules.

13. R.S.Verma, PW.3 has overdone his job when having stated that the plaintiffs-respondents had done overtime work under orders of the Postmaster given orally or in

92

~~AM
G~~

- 6 -

writing, the oral orders later reduced to writing, he pleaded ignorance of any departmental rule that overtime work can be done only under written orders. He was obviously more helpful to the plaintiffs-respondents than plaintiff No.3 himself.

14. It must be remembered that during the period in dispute i.e. between November, 1983 and January, 1984 there were periods of sanctioned overtime work done by the plaintiffs-respondents for 68½ hours. The controversy regarding the overtime work period entered in the proposal register but not sanctioned by the Postmaster seems to flow from some sort of controversy between the supervisor and the Postmaster DW.1 K.A.Qadri.

15. K.A.Qadri, DW.1 was Postmaster from 18.12.82 to 11.4.85. He emphatically said that there are no departmental orders for oral sanction of overtime work and that he never gave any oral sanction. With reference to the proposal register, he deposed that the Supervisor had made entries in November and December, 1983 with a forwarding note to him for favour of sanction and for entries of 1.11.83 he had recorded his objection which the Supervisor "noted for future" but did not comply with the orders. The witness added that he had asked for a certificate but that also was not furnished. On 2.11.83 he again referred to his objections of 1.11.83 but even then the Supervisor did not submit any reply. It is significant that according to that witness, when he was on leave on 3.11.83, ^{and} 5.11.83 the person officiating for him had allowed to overtime work and when he returned to duty on 7.11.83 he recorded his surprise that no notice

92

(A3)
7

- 7 -

was being taken of his previous remarks. Similarly, according to the witness, overtime was allowed by the person officiating for him on 14.11.83 and on 15.11.83, the register was not produced before him from 15.11.83 to 30.11.83, and the something happened in December, 1983.

16. The witness went on to say that on 16.1.84 several remarks were recorded by him and by the Supervisor on the overtime proposal register, but the Supervisor did not report compliance of his orders dated 16.1.84 or those from 17.1.84 to 21.1.84. He admitted that he took no action against the Supervisor but explained that he could only report and he did report. These circumstances indicate that the Supervisor was trying to browbeat the Postmaster. In view of the admitted statutory position that sanction for overtime work proposals must be obtained before the overtime work is done, the mere fact that entries were made by the Supervisor of overtime work in the proposal register is no proof either of the fact that the Postmaster had given an oral sanction or that the plaintiffs-respondents had actually worked overtime on the days in question. The learned Munsif has completely overlooked these aspects of the evidence on record. It is of course admitted that DW.1 had sanctioned overtime work on specified dates between November, 1983 and January, 1984 as set out in para 5 of the written statement. As mentioned by the learned Munsif, the burden of proof was upon the the plaintiffs-respondents, but having said so the learned Munsif failed to notice that not only the plaintiffs-

92

(A3)
O

- 8 -

respondents did not discharge that burden but the totality of the evidence on the record fails to make out that the plaintiffs-respondents had done overtime work or that the Postmaster, defendant-appellant No.1 had given any oral sanction for such work. The Suit deserves to fail.

17. The Appeal is allowed. The judgement and decree of the Trial Court is set aside and the Suit is dismissed. Parties shall bear their costs.

Ch. Venkateswaran
Member (A9)

Ch.
26-2-91
Vice Chairman

Dated the 26th Feb., 1991.

RKM