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RESERVED

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD.

Registration (O.A.) No. 146 of 1987

Ram Dev Applicant.

Versus

Superintendent, RMS, Jhansi Respondent.

Hon'ble Ajay Johri, A.M.

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In this application received under Section 19 of the Administrative Tribunals Act XIII of 1985 the applicant, Ram Dev, employed as Sorting Assistant at Jhansi has come to the Tribunal against an order dated 18.9.1984 issued by the Superintendent, RMS, Jhansi refusing payment of his Over Time Allowance. During the period the applicant was officiating as a Platform Inspector in a leave vacancy, a post on which ~~an~~ a special pay is paid to the incumbent, the applicant was asked to perform some outstation duties. He performed excess duty during this period but he was refused over time allowance.

2. According to the respondent on 9.6.1982 due to sudden changes at the time of departure of the train and non-availability of a Sorting Assistant to accompany the train in the extra-compartment carrying mail bags, the applicant was ordered to proceed with the train. The applicant returned from the tour on 21.6.1982. On return he claimed the over-time allowance. Since he was already in receipt of the special pay and was officiating as Platform Inspector, no over-time allowance was admissible or could be paid. He was asked to claim Daily Allowance.

His representations to the Director, Postal Services, dated 27.7.1984 and Post Master General dated 15.1.1986, on rejection of earlier representation, which was not sent to PMG as he had to represent to the Director General, P&T, but the applicant did not prefer any appeal to DG, P&T^{or were applied}. Since the representation was replied on 8.8.1985 the respondent has said that it is now barred by limitation. Since during the time he was sent on outstation duty he continued to work as Platform Inspector and draw the special pay, he is not entitled to overtime.

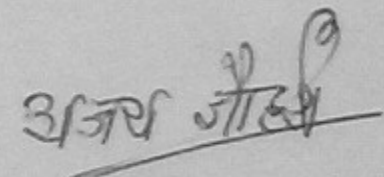
3. The applicant argued his case in person while Sri N.B. Singh represented the respondent. The applicant did not deny that he was officiating as Platform Inspector and was drawing special pay. His submission was that he was actually a Sorting Assistant and Sorting Assistants are permitted to claim overtime allowance. Therefore for the period he was sent out, he^{or he} treated as having been sent out as Sorting Assistant and the special pay paid to him be recovered and he be sanctioned the overtime allowance. Sri N.B. Singh contended that this was not admissible as he was officiating as Platform Inspector and for such persons only Daily Allowance is admissible. I have seen the case file too.

4. It is not under dispute that the applicant was officiating as a Platform Inspector and drawing special pay during the period he was deputed on outstation duty. According to respondent overtime allowance is not admissible to a Platform Inspector, who draws special pay. The applicant's submission at the Bar was that the special pay be recovered from him and he be

paid overtime allowance is evidently made with the thought in the background that had he been only a Sorting Assistant he would have earned this overtime. It cannot do away with the fact that he was officiating as Platform Inspector. If a person occupying a post with special pay is not entitled to overtime - the same cannot be earned by circumventing the factual position. The contentions of the applicant have not been supported by any rules to show that even as Platform Inspector he could get overtime or that he could not be sent out on line if it was found necessary to do so without the rules being relaxed. He was evidently entitled to Daily Allowance and this seems to have been paid to him and if not paid he can draw the same.

5. Under the circumstances I find no merit in the prayer made by the applicant and his application must fail.

6. The application is, therefore, rejected. Parties will bear their own costs.


Member (A).

Dated: December 8th, 1987.

PG.