

Open Court

**CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD**

**Original Application No. 513 of 1993
Alongwith
Original Application No. 1517 of 2002
Original Application No. 1518 of 2002
Original Application No. 1519 of 2002
Original Application No. 1520 of 2002
Original Application No. 1521 of 2002**

Tuesday, this the **12th** day of **February**, 2008

**Hon'ble Mr. Justice A.K. Yog, Member (J)
Hon'ble Mr. K.S. Menon, Member (A)**

Am
1.

Original Application No. 513 of 1993

U.C. Shukla Son of Sri Madho Ram Shukla, R/o Gita Watika, Gorakhpur, Working as A.C.C.I., Under Chief Electrical Engineer, N.E. Railway, Gorakhpur.

Applicant

By Advocate Sri Bashist Tiwari

Versus

1. Union of India through the General Manager, N.E. Rly. Gorakhpur.
2. D.R.M., N.E. Rly. Lucknow.
3. Chief Electrical Engineer, N.E. Railway, Gorakhpur.
4. Senior D.E.E. (Colony) N.E. Rly., Gorakhpur.

Respondents

By Advocate Sri K.P. Singh

Am
2.

O.A. No. 1517 of 2002

1. Jata Shankar Pandey S/o Sri Ram Abhilakh Pandey,
2. Yogendra Prasad Gaur S/o Sri Buddhu Prasad Gaur,
3. Irshad Ahmad S/o Sri Riyaz Ahmad,
4. Murtza Hussain Ansari S/o Late Sri Abdul Jalil Ansari,
5. Ram Iqbal Yadav S/o Late Sri Lallan Prasad Yadav,
6. Ram Karan Gaur S/o Late Sri Ram Adharey Gaur,
7. Durga Prasad Mishra S/o Late Sri Dina Nath Mishra,
8. J.K. Asthana S/o Late Sri M.P. Asthana,
9. Tribhuwan S/o Late Sri Ram Swarath,
10. Mansharam S/o Sri Nankau,
11. Dilip Kumar S/o Sri Shyam Sunder,
12. Ashok Kumar Prajapati S/o Sri Anjori Lal,
13. Mohammad Tahir S/o Late Sri Abu Mohammed,
14. Gajraj Yadav S/o late Sri Ram Samujh Yadav,
15. Jamshed Hussain Khan S/o Sri Jakir Hussain Khan,
16. Satay Prakash Singh S/o Late Sri Ram Awadh Singh,
17. Raj Kumar S/o Late Sri Sohan Lal,
18. Ahmad Ali S/o Sri Rahmat Ullah Ali,
19. Om Prakash S/o Late Sri Mata Din,
20. Phool Chan Gupta S/o Late Dhurai,
21. Abdul Rahim S/o Mohd. Kurban,
all (1-21) are working as Khalasi in
scale of Rs.750-940/2550-3200/-
under the Section Engineer (Electrical),
Air Conditioned Coach, N.E. Railway, Gorakhpur.
22. Jamil Ahmad S/o Late Sri Khair Ullah,
23. Vishwanath Prasad S/o late Sri Mata Din Prasad,

Am

24. Jagdish Sharma S/o Late Sri Ram Awadh Sharma,
25. Om Prakash-II S/o Late Sri Ram Surat,
26. Laxmi Dutta Bhatta S/o Late Sri Tayodhan Bhatta,
27. Kripa Narayan Dubey S/o Late Sri Daya Ram Dubey,
28. Jagjivan Lal Srivastava S/o Sri Ved Prakash Srivastava,
29. Rama Kant Tiwari S/o Late Sri Kaushalanand,
30. Shamsul Haq S/o Mohd. Bux,
31. Shri Kant Pandey S/o Late Sri Ram Kripal Pandey,
32. Suresh Pratap s/o Sri Ramagya,
33. Jitendra Nath S/o Late Sri Ram Nath,
34. Om Shankar S/o Late Sri Sirpat.
35. Shiv Prakash Shukla S/o late Sri Dina Nath Shukla,
36. Jagdish S/o Sri Shital,
37. Suresh Mahto S/o late Sri Fudano Mahto,
38. Jawahar Lal S/o Sri Kedar Nath,
39. Shyam Babu Sharma S/o late Sri Jay Nath Sharma,
40. Ram Briksha S/o Sri Sukkhu,
41. Prem S/o late Sri Ram Dhari,
42. Ram Narayan Yadav S/o late Sri Rishi Dev Yadav,
43. Chhavi Lal S/o late Sri Bhagwan Din,
44. Kanta S/o Sri Ram Pati,
45. Ram Harakh S/o late Sri Shiv Mangal,
46. Ram Chandra S/o late Sri Nirahu,
47. Chandra Mani S/o Sri Jieut,
48. Krishna Prasad S/o Late Hira Lal,
49. Ram Darash-II S/o Sri Maha Deo,
50. Sapan Ram Chaudhary S/o late Sri P.R. Chaudhary,
51. Swami Nath Pandey S/o late Sri Ram Karan Pandey,
52. Ram Dayal Yadav S/o late Sri Bhikari Yadav,
53. Arun Kumar S/o Sri late Sri Ram Sunder,
54. Rajesh Kumar Mishra S/o late Sri Din Dayal Mishra,
55. Gajraj S/o Sri Mewa Lal,
56. Khumulli S/o late Sri Ram Gulam,
57. J.K. Rao S/o late Sri R.K. Rao,
58. Ram Badan Tiwari S/o late Sri Satya Deo Tiwari,
59. Shiv Dhan S/o Sri Ram Suharat,
60. Shiv Shankar-II S/o late Sri Arjun,
61. Anil Kumar Dubey S/o Sri Radhey Shyam Dubey,
62. Ganesh Yadav S/o Sri Ram Bachan Yadav,
63. Ravindra Ram Tripathi S/o Sri Jhniku Ram Tripathi,
64. R.S. Pathak, S/o late Sri R.P. Pathak,
65. Ram Prahlad S/o Sri Shitala Prasad,

all (22-65) are working as Khalasi Helper in scale of Rs.800-1150/2650-4000/- under the Section Engineer (Electrical), Air Conditioned Coach, N.E. Railway, Gorakhpur.

Applicants

By Advocate Sri Bashist Tiwari

Vs.

1. Union of India through the General Manager, N.E. Railway, Gorakhpur.
2. Divisional Rail Manager (E), N.E. Railway, Lucknow.
3. Chief Electrical Engineer, N.E. Railway, Gorakhpur.

Respondents

By Advocate Sri K.P. Singh

3. O.A. No. 1518 of 2002

1. Ram Jatan Prasad S/o Sri Sant Bali Prasad,
2. Kaushal Kishore S/o Sri Babu Ram,
3. Daya Nath S/o Sri Mukhya Nath,
4. Ayodhya Singh-II, S/o late Sri Ganga Singh,
5. S.K. Sinha S/o Sri S.N. Sinha,
6. Madan Gopal S/o Sri Bechu Prasad,
7. Jahir Ahmad S/o late Sri Ali Ahmad,
8. Kailash Nath Mishre-I, S/o late Sri Triveni Prasad,
9. Dayal Prasad S/o late Sri Ghurahu Prasad,
10. Alok Kumar Das S/o late Sri S.C. Das,
11. B.N. Rai S/o Sri L.N. Rai,
12. Nand Lal S/o late Sri Vansh Raj,
13. Benu Gopal Vashno S/o Sri Bankey Bihari Vashno,
14. Mohd. Makki S/o late Mohd. Safi,

15. Vinod Kumar Singh S/o Vrinda Prasad Singh,
 16. Ajit Kumar Dwivedi S/o J.N. Dwivedi,
 17. Gaya Prasad S/o Sri Baldeo Prasad,
 18. Shiv Shankar Prasad-I S/o late Sri Sita Ram,
 19. Vinda Prasad S/o late Sri Triveni,
 20. Nakchhed S/o late Sri Jagannath,
 21. Sanjay Kumar Srivastava S/o Sri K.P. Srivastava,
 22. Chandira Prasad Ram S/o Sri Shobha Ram,
 23. Kripa Shankar Shukla, S/o late Ram Kishore Shukla,
 24. Ram Bachan Pandey S/o Sri Surat Narayan Pandey,
 25. Sarvda Prasad S/o late Sri Shyam Lal,
 26. Surendra Prasad Pandey S/o late Sri T.P. Pandey,
 27. Satya Ram Yadav S/o late Sri Shyam Lal Yadav,
 28. Gorakh Nath Chaudhary S/o late Sri Yamuna Chaudhary,
 29. Sukh Lal S/o late Sri Raja Ram,
 30. Ram Deo Khatik S/o late Sri Ram Milan Khatik,
 31. R.K. Rahi S/o Sri Ram Sahay Pandey,
 32. Sudhir Kumar Srivastava S/o Sri P.L. Srivastava,
 33. Pradeep Kumar Mishra S/o Sri L.L. Mishra,
 34. Chhatrapal S/o Sri Kodai Prasad,
 35. Wasim S/o late Mohd. Rafiq,
 36. Bhola Ram S/o late Sri Dashrath Ram,
 37. Krishna Pankaj S/o Sri Indra Kamal,
 38. Jagdamba Singh S/o Sri Shiv Mangal Singh,
 39. Arun Kumar Arora S/o Sri S.L. Arora,
 40. Bhagwati Prasad Chaudhary S/o Sri Tribhuwan Chaudhary,
 41. Anil Mani Tripathi S/o Sri Narendra Mani Tripathi.
- All are working as A.C.C.I Grade-II in scale of Rs.4000-6000/- under the Section Engineer (Electrical), Air Conditioned Coach, N.E. Railway, Gorakhpur, R/o C/o Sri V.C. Shukla, Shahpur, P.O. Geeta Vatika, District-Gorakhpur.

Applicants**By Advocate Sri Bashist Tiwari****Vs.**

1. Union of India through the General Manager, N.E. Railway, Gorakhpur.
2. Divisional Rail Manager (E), N.E. Railway, Lucknow.
3. Chief Electrical Engineer, N.E. Railway, Gorakhpur.

Respondents**By Advocate Sri K.P. Singh****4. O.A. No. 1519 of 2002**

1. Ayodhya Singh S/o Sri Ranjit Singh,
2. P.P. Srivastava S/o late Sri Narvda Prasad Srivastava,
3. Tameshwar S/o Sri Baleshwar Sharma,
4. Hari Ram-I S/o late Sri Sukh Deo,
5. Krishna Mohan Singh S/o late Sri R.C. Singh,
6. Ratnesh Lal Srivastava S/o late Sri Harishchandra,
7. Ali Raja S/o Sri Ismail,
8. Dinesh Lal Srivastava S/o Sri Suresh Lal,
9. Rajendra Prasad S/o late Sri Babu Lal,
10. Ravindra Nath Dubey S/o late Sri Sathi Ram Dubey,
11. Hari Prasad Yadav S/o late Sri Moti Lal Yadav,
12. Vijay Pratap S/o late Sri Ganga Prasad,
13. Rajpati Yadav S/o late Sri Hardeo Yadav,
14. Bhola Nath Shukla S/o late Sri Vishwanath,
15. Lal Chand S/o Sri Vipat,
16. Ram Nath S/o late Sri Ram Das,
17. Rashid Ahmad S/o Sri Ramjan Ali,
18. Gaysuddin S/o late Sri Din Mohammad,
19. Prabhu Nath S/o late Sri Jieut,
20. Hari Ram-III, S/o Sri Surya Narayan,
21. Prakash S/o late Sri Chandi Prasad,
22. Hari Ram-II S/o late Sri Ram Jagan,
23. Vidya Prasad Mishra S/o late Sri Virjhan Mishra,
24. Dwarika Prasad S/o late Sri Shital Din,
25. Ashik Ali S/o late Jumrati,
26. Sharif Ahmad S/o late Mohd. Ismail Khan,
27. J.N. Tripathi S/o late Sri Lalita Prasad Tripathi.
28. Rehman S/o late Sri Rehmat,
29. Shiv Nath Prasad S/o Sri Tilaku Prasad,



30. Ram Daras S/o Sri Shyama,
 31. Harishchand S/o Sri Santu Prasad,
 32. Ram Krisan Lal S/o late Sri Ram Gulam,
 33. Shahabuddin S/o late Sri Abdul Hakim,
 34. Raj Kumar Rai S/o late Sri Ram Naresh Rai,
 35. Pankaj Kumar Kar S/o late Sri K.N. Kar,
 36. Om Prakash S/o late Sri Gorakh Prasad,
 37. Munib S/o late Sri Ram Belas,
 38. Uma Shankar Pandey S/o late Sri Krit Narayan Pandey,
 39. L.F. Siddiqi S/o Mohd. Nasim,
 40. Daya Nand S/o Sri Ram Kishore,
 41. Pram Narain Mishra S/o Sri Raj Bali Mishra,
 42. Aanurudh Kumar S/o Sri Ram Pyare,
 43. 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,
R/o C/o Sri V.C. Shukla, Shahpur
P.O. Geeta Vatika, District-Gorakhpur.
44. Ram Brichh S/o Sri Ram Subhag,
 45. Kishori Lal S/o Sri Durjan Das,
 46. R.K. Verma S/o Sri Jeet Narain,
 47. Shambhoo Nath Pandey S/o Sri Chhabi Nath Pandey,
 48. Pervej Ahmad S/o Sri Sami Ullah Varsi,
 49. Israr Ahmad S/o Sri Nishar Ahmad,
 50. 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. Railway, Gorakhpur,
R/o C/o Sri V.C. Shukla, Shahpur,
P.O. Geeta Vatika, District-Gorakhpur.

By Advocate Sri Bashist Tiwari

Applicants

Vs.

1. Union of India through the General Manager, N.E. Railway, Gorakhpur.
2. Divisional Rail Manager (E), N.E. Railway, Lucknow.
3. Chief Electrical Engineer, N.E. Railway, Gorakhpur.

By Advocate Sri K.P. Singh

Respondents

Am

5.

O.A. No. 1520 of 2002

1. Ram Prasad Pandey S/o Late Sri Bal Mukund Pandey,
 2. Ramji Kushwaha, S/o Sri Ram Deo Kushwaha,
 3. Radhey Shyam S/o Sri Kariya,
 4. Girja Shankar S/o late Sri Shiv Kumar
 5. Badshah Chaudhary S/o Sri Prem Shankar Chaudhary,
 6. Surendra Kumar S/o late Sri Jagdeo Prasad,
 7. Ram Prasad-II S/o late Sri Sunder,
 8. Niraj Kumar Khare S/o late Sri Krishna Ji Khare,
- all (1-8) are working as Khalasi in scale of
Rs.750-940/2550-3200/- under the Section Engineer
(Electrical), Air Conditioned Coach, N.E. Railway,
Gorakhpur.
9. Lalji S/o Sri Shyam Lal,
 10. Ram Bali-II, S/o Sri Kishore,
 11. Mata Prasad S/o late Sri Nandoo,
 12. Ram Sagar S/o Sri Ram Das,
 13. Jai Kishun S/o late Sri Kauleshwar,
 14. Pancham Prasad S/o late Sri Gaya Prasad,
 15. Ram Shankar S/o late Sri Jay Ram,
 16. Ramesh Kumar Verma S/o late Sri Ram Ashish Verma,
 17. Sher Ali S/o Sri Mohar Ali,
 18. Ganesh Chand Srivastava S/o Sri Keshari Narayan,
- all (9-18) as Khalasi Helper in scale of
Rs.800-1150/2650-4000/- under the Section Engineer
(Electrical), Air Conditioned Coach, N.E. Railway,
Gorakhpur

By Advocate Sri Bashist Tiwari

Applicants

Am

Vs.

1. Union of India through the General Manager, N.E. Railway, Gorakhpur.
2. Divisional Rail Manager (E), N.E. Railway, Lucknow.
3. Chief Electrical Engineer, N.E. Railway, Gorakhpur.

Respondents**By Advocate Sri K.P. Singh****Am. 6. O.A. No. 1521 of 2002**

1. Subhash Chandra S/o late Sri Balikaran,
 2. N.K. Singh S/o late Sri Ram Darash Singh,
 3. Rajesh Kumar Sharma S/o late Sri G.P. Sharma,
 4. Ravindra Kumar Mishra S/o late Sri G.D. Mishra,
 5. Daya Ram S/o Sri Bhagirath,
 6. Rajendra Yadav S/o Sri Ram Sanwar Yadav,
 7. Shiv Narayan Yadav S/o Sri Ram Pyare Yadav,
 8. Arun Prakash Tiwari S/o Sri G.P. Tiwari,
 9. Gorakh Nath Yadav S/o Sri Ram Nagina Yadav,
 10. Suresh Chandra Chaudhary S/o late Sri Kedar Chaudhary,
 11. Manish Kumar Srivastava S/o late Sri B.D. Srivastava,
 12. Krishna Nath Mishra-II, S/o late Sri Lalman Mishra,
 13. Safir Ahmad S/o late Sri Sagir Ahmad,
 14. Ram Naresh S/o late Sri Ram Sewak,
 15. Puranmasi S/o Sri Jieut,
 16. Ram Nayan S/o Sri Asharfi,
 17. Sugriv Yadav S/o late Sri Ram Lakhan Yadav,
 18. Ambika Prasad S/o Sri Ram Adharey,
 19. Brijesh Chand S/o late Sri Suresh Chand,
 20. Ram Priti Singh S/o late Sri Ram Lakshan Singh,
 21. Ram Lal S/o late Sri Nankau,
 22. Jay Prakash S/o late Sri Mast Ram,
 23. Chandra Deo, S/o Sri Baljor,
 24. Mohd. Kalimullah S/o late Sri Naimullah,
 25. Abdul Kalam S/o Sri Khewayi,
 26. Ram Bhaju S/o Sri Ram Lal,
 27. Sushil Kumar S/o Sri K.C. Hind Sewak,
 28. Abhai Sharan Srivastava S/o Sadhu Sharan 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 V.C. Shukla, Shahpur,
P.O. Geeta Vatika, District-Gorakhpur.

Applicants**By Advocate Sri Bashist Tiwari****Vs.**

1. Union of India through the General Manager, N.E. Railway, Gorakhpur.
2. Divisional Rail Manager (E), N.E. Railway, Lucknow.
3. Chief Electrical Engineer, N.E. Railway, Gorakhpur.

Respondents**By Advocate Sri K.P. Singh****ORDER****By Justice A.K. Yog, Member (J)**

All the above mentioned Original Applications (six in number) are being taken up together today on the statement being made by learned counsel for the parties that as the facts, cause of action and the relief prayed for are the same in all the Original Applications so all the Original Applications may be decided by the common order.

Am.

2. For convenience, we shall refer to the salient facts of the main O.A. No. 513 of 1993 U.C. Shukla Vs. Union of India and others: -

The applicant claimed Over Time Allowance for working beyond 96 hours on an average in two weeks from the period of "Signing On" and "Signing Off" on the ground that he has been working as A.C.C.I. since September 5th, 1985 at Gorakhpur in North Eastern Railway. In paragraph No. 4 (7) of the O.A. it has been mentioned that the Railway Administration was not treating the applicant as a part of running staff and depriving him of Over Time allowance under the relevant rules/regulations. Reliance is being placed on the Judgment of the Apex Court in the case of Abid Hussain and others Vs. Union of India A.I.R. 1987 S.C. Page 820 whereby Air Conditioned Coach Incharges-Attendants were directed to be paid Over Time allowances for extra duty hours exceeding 96 hours in two weeks in Western Railway, Central Railway and Eastern Railway. It is claimed that there is no justification for denying the same (O.T.A.) to such Air Conditioned Coach Incharges-Attendants in the Northern Railway and that they should not be discriminated and they are entitled for same treatment on the ground of 'Parity'. For convenience, the Apex Court Order dated 22.01.1987 in the case of Abid Hussain (supra) is being quoted below: -

"1. It is not disputed that the Air-conditioned Coach Incharges-Attendants are being paid overtime allowances for extra duty hours exceeding 96 hours in two weeks in the Western Railway, Central Railway and Eastern Railway. There is no justification for denying overtime allowances on the same basis to the Air Conditioned Coach Incharges-Attendants in the Northern Railway. We accordingly direct the Union of India and the Railway Administration to pay with effect from July 1, 1984 the overtime allowance to the Air Conditioned Coach Incharges-Attendants working in the Northern Railway on the same basis on which the Air Conditioned Coach Incharges-Attendants in the other three Railways, referred to above, are paid. All arrears of such allowances upto date shall be paid as early as possible and in any event not later than four months from today. The benefit of this order shall be extended to all such employees including those who have retired and those who have not joined as petitioners herein.

2. The Writ Petitions are allowed. No costs."

3. The Tribunal initially allowed the above Original Applications with a direction to the respondents Railway Administration to accord benefit of Over Time allowance to the applicants also on the analogy of parity as observed by the Apex Court in the Judgment and Order dated

Am.

22.01.1987 in the case of Abid Hussain and others (supra). Feeling aggrieved the respondents-Railway Administration filed Writ Petition/s, which were dismissed on 06.11.2003. Being aggrieved the Railway Administration filed S.L.P. No. 390 of 2007 Union of India and Others Vs. U.C. Shukla connected with other Civil Appeal No. 391 of 2007 along with S.L.P. Special Leave Petition No. 24841 of 2004 and S.L.P. © No. 12252 of 2004 respectively. The Apex Court has disposed off aforesaid SLP/Civil Appeal by means of Order dated 22.01.2007; relevant extract of which is being reproduced: -

"Leave granted.

The parties herein have filed a large number of documents before us. However, it appears that the dispute revolves round the working out of the order of the Railway Board dated 11.6.1974, in regard to the calculation of rostered hours vis-à-vis the standard hours and the preparatory hours. We are, therefore, of the opinion that the matter should be considered afresh by the Central Administrative Tribunal, Allahabad, on its merits upon considering the additional documents, which have been filed before us. We direct accordingly.

We would, however, request the Central Administrative Tribunal, Allahabad to consider the desirability of disposing of the matter as expeditiously as possible, preferably within a period of four months from the date of communication of this order. The impugned judgments are set aside accordingly and the appeals are allowed."

The Apex Court required Central Administrative Tribunal, Allahabad to decide the matter within a period of four months from the date of communication of the said Apex Court's order. Interestingly, the respondents took one year (Approx.) to file Misc. Application praying for condonation of delay alongwith supplementary counter affidavit (enclosing therein nine documents), as additional evidence. It is to be noted that in the application (praying for condoning delay in filing additional documents) there is no explanation to justify the 'delay'. On the one hand the Railway wants a decision on the basis of 'additional evidence' filed belatedly before the Apex Court and on the other hand they have acted casually and failed to approach the Tribunal promptly.

4. Be that as it may, considering the nature of the claim and in the interest of justice, we have condoned the delay and directed supplementary counter affidavit to be taken on record and to be treated as part of the record.



5. The applicant desires that the issues raised in the present O.A. be adjudicated by this Tribunal on the basis of the pleadings and documents on record.

6. Having heard the matter at some length and on perusing the pleadings as well as the documents now brought on record by way of 'additional documents', it is clear that the contention of the parties requires examination and ascertainment of factual aspects which itself are in dispute. Determination of 'facts', appreciation of technical terms, departmental working complex, preparation of Roster-computation of working hours of different kind, etc. same cannot be expeditiously done on the basis of pleadings and documents before us and further original records may be required.

7. Question of allowing Over Time allowance will depend upon ascertaining-facts-re.-normal/roster hours of the applicants, ascertainment and computation of working hours with reference to "Signing On" and "Signing Off" and effect of 'preparatory' and 'complementary' duties if any. For these and other factual aspects, apart from appreciating the actual implication and connotation of relevant regulation/s, we are of the opinion that competent authority in the Railway Administration, who will be in a better position to decide the same, be required to adjudicate the issues in question.

8. Before parting with these cases, we would like to refer to the report of the Chairman, Railway Labour Tribunal, 1969 (annexure-3 to supplementary counter affidavit). The recommendations made in this report are not in dispute. The applicants fall in which category will depend upon the ascertainment of factual aspect.

9. Learned counsel for the applicants as well as the respondents have referred to paragraph No. 6 (c) & (g) of the said report dealing with O.T.A. (particular page 50) reads as under: -

"(c) *Continuous and Intensive workers will earn overtime if they put in more than 96 and 84 hours respectively in two weeks plus, in those cases where they are required to do preparatory and/or complementary work, such additional number of hours as they are required to work on that account during that period.*

"(g) *Rate of overtime shall be 1½ times the ordinary rate for overtime work beyond rostered hours, but within statutory limits,*



but, it shall be twice the ordinary rate for overtime worked beyond statutory limits."

10. This report contains certain stipulations governing working hours and over time allowances etc. Our notice is also drawn towards Railway Board's letter dated June 11th, 1974/annexure-4 to the supplementary counter affidavit. A bare reading of it shows that normal working hours contemplated for continuous work is 96 hours. Clause (f) of this letter shows that 'Over Time' has to be calculated on the basis of total number of rostered hours during averaging period fixed for an employee. It also deals with the rate of Over Time allowances as per report of the Tribunal, noted above. It is important to note that the basis of granting rate for Over Time has been divided into two categories i.e. (i) 1½ times the ordinary rate for overtime work beyond rostered hours but within the 'maximum statutory limits' and (ii) if the statutory limit (of 96 hours) is crossed, the Over Time will earn twice of the ordinary rates. Such an approach is in consonance with the spirit of Regulation of Hours of Work (Regulation 132 [2], photocopy annexed as annexure-7 to the Supplementary Counter Affidavit), which reads: -

"132 (2) A railway servant whose employment is continuous shall not be employed for more than fifty four hours a week on an average in a two-weekly period of fourteen days."

This regulation itself is titled as "Limitation of hours of work", which indicates that 'maximum' limit of working hours has been fixed i.e. 108 hours in two weeks. It transpires that normal period of working in 'continuous' service is 96 hours in two weeks (as referred to above). Therefore working beyond 96 hours in two weeks will be and has to be treated as 'over time' attracting payment of Over Time allowance at the rate of 1½ times of ordinary rates but it is subjected to maximum limit of 108 hours within two weeks (i.e. 54 hours in a week). In case over-time exceeds 108 hours-then employee shall be entitled to twice the ordinary rate.

11. The above interpretation alone appears to be logical and reasonable. However, these are our tentative observations as we are not finally adjudicating the matter at this stage.

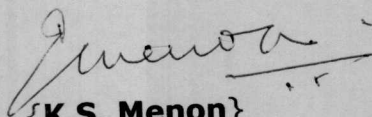
12. Taking into account all the facts and circumstances, as discussed above, we direct the applicants to file a comprehensive representation within two months from today alongwith relevant documents/material

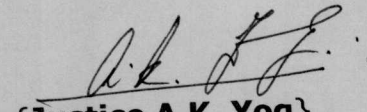


raising his/their grievance/s both factual and legal for decision before the General Manager, North Eastern Railway, Gorakhpur/Respondent No.1 alongwith the certified copy of this Order, and such representation being filed within the time stipulated above, the said authority shall decide the representation by means of a reasoned order considering all the contentions of the applicants keeping in view the relevant provisions of Act, Rules and Regulations, High Court and Supreme Court Judgments (if any), without being influenced by any of the observation made above in this order exercising its unfettered jurisdiction, within a period of four months of receipt of such representation.

13. Subject to the above observations/directions, these Original Applications stand disposed off. No order as to costs.

14. A copy of this order be placed in all the connected files.


{K.S. Menon}
Member (A)


{Justice A.K. Yog}
Member (J)

/M.M/