

Reserved.

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH,
ALLAHABAD.

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original Application No. 1254 of 1995.
this the 21st day of August 2001.

HON'BLE MR. RAFIQ UDDIN, MEMBER (J)

1. Sahdeo Singh, S/o Karan Singh, aged about 49 years, R/o B-61, Barra, Kanpur.
2. Devi Deen, S/o Dauju Kushwaha, aged about 47 years, R/o House no. 122/711, Shashatri Nagar, Kanpur.
3. Dhan Vir Singh, aged about 31 years.
- 3-B Jayanti Singh aged about 29 years.
- 3-C Uday Singh, aged about 27 years.
- 3-D Amar Singh, aged about 24 years.
All sons of late Bachchu Singh, R/o 107, Kalpi road, SISI Compound, Kanpur.

Applicants.

By Advocate : Sri O.P. Gupta.

Versus.

1. Director, S.I.S.I., 107, Industrial Estate, Kalpi Road, Kanpur.
2. Director, S.I.S.I., Kamla Nagar, Agra.
3. Development Commissioner, Small Scale Industries Ministry of Industries, Nirman Bhawan (South Wing), 7th Floor, Maulana Azad Road, New Delhi.
4. Union of India through Secretary Ministry of Industries, Government of India, New Delhi.

Respondents.

By Advocate : Sri D.S. Shukla.

ORDER

The applicants are working as Watchmen in the office of Director, Small Scale Service Institute (S.I.S.I. in short), Kanpur (respondent no.1).

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The grievance of the applicants is that as per Government of India order dated 31.12.1971 the working hours of a Chowkidar should be 48 hours in a week. In other words, a Watchman is required to work only 8 hours duty per day. However, the applicants have been allowed to work 12 hours per day. Since the applicants have been working for more than 8 hours per day, they are entitled Over Time Allowance (O.T.A. in short) for the excess period. The applicants made several representations to the respondents requesting them to fix only 8 hours duty per day, but without any result and they are being compelled to perform 12 hours duty of watchmen.

2. It is further stated that the Government of India vide decision dated 11.8.1976 decided that a Chowkidar should not be allowed to work ^{for} more than 8 hours per day and incase if a Chowkidar is allowed to work beyond 8 hours, he is entitled O.T.A. for the excess period. Besides, a Chowkidar is also entitled for an additional payment if he is allowed to perform duty of Watchman on Gazetted holidays. A Chowkidar is also entitled 6 holidays in a year in addition to 3 national holidays and one weekly off. However, the applicants who are also working as Chowkidar in the office of the respondent no.1 neither allowed weekly off, nor six gazetted holidays and nor three national holidays. The applicants have, therefore, filed this O.A. seeking directions to the respondents to pay them O.T.A. for the whole period, they performed excess duty of Watchmen and to grant the benefit of weekly off and gazetted holidays including national holidays, as per the Government orders.

3. I have heard the learned counsel for the applicant and perused the pleadings on record.

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4. The claim of the applicants has been resisted by the respondents by stating that all the applicants have been paid their O.T.A., which was due to them under the rules. It is further stated that the applicants have been appointed as 'Watchmen' which job entails security of Government land, building, machinery etc. As such they have to perform extra duty besides their normal working hours in rotation for which they are paid O.T.A. as admissible under the existing rules. The applicants are also granted the benefit of weekly off due to them in rotation. However, it is not possible to the respondents to grant holidays/off to all the workmen at the same time, otherwise it would not be in the interest of the organisation to leave the premises without any security.

5. Further case of the respondents is that all the applicants are performing the duty of ordinary watch and ward. Their work does not involve the carrying of any sort of fire arms and also does not involve sustained mental or physical efforts. The G.O. referred to by the applicants in their support lays down that in those cases where sustained, mental or physical efforts or work is involved, normally ⁱⁿ working hours should be 48 hours/ a week. Hence, the the said G.O. is not applicable to the applicants.

6. It is relevant to mention that the applicants in their Rejoinder affidavit have clearly admitted that the applicant nos. 1 to 3 have been paid the O.T.A. for nine gazetted holidays in a year for the period from 1991 to 1993. It clearly shows that the applicants have been paid the O.T.A. for gazetted holidays. In the present case, the applicants have not mentioned

any specific period for which they have not been paid their O.T.A. In absence of such details, it is not possible to grant the relief of O.T.A. for a particular period or days.

7. As regards the controversy regarding fixation of duty hours of a Chowkidar etc., the learned counsel for the applicants has brought to my notice a copy of the Government of India, Department of Personnel, New Delhi, letter dated 31.12.1971 (Annexure RA-3 to the Rejoinder) which inter alia provides that working hours of a Chowkidar should be 48 hours in a week in cases in which sustained mental and/or physical efforts/ and or alitness is involved. It is also clear from the dt. 9.10.81 letter/issued by the Development Commissioner, Small Scale Industries, New Delhi addressed to the respondent no.1 (Annexure RA-4 to the Rejoinder) that the duty of Watchman is utilised for night during the working days, whereas during the day time watch and ward duty is managed by the Sweeper and Peon. It is also stated that during Sundays/holidays Watchman has to perform the duty round the clock for which he is normally paid O.T.A. after making the deductions of 1 1/2 hours (1/2 hour lunch and 1 hour free duty). A Watchman is also entitled for 9 days holidays including 3 days national holidays. The learned counsel for the applicant has also brought to my notice a copy of the letter dated 2.3.1988 (Annexure no.3) issued by the Development Commissioner, Small Scale Industries, New Delhi addressed to the Director, S.I.S.I. by which it has been intimated that the Department of personnel has observed that "Watchman perform watch and ward duties and they belong to the category of Security staff. Their services would be required not only during office hours but also other time. That is why they have been treated as excluded category of staff and separate

orders have been issued regarding grant of holidays etc." The contents of the letter dated 9.10.91 (Annexure R.A. -4 to the Rejoinder) make it clear that the duty of a Watchman is utilised for night during the working days and during the Sundays/holidays, when a Watchman is required to perform his duty round the clock for which he is normally paid O.T.A. as per the rules. As regards the entitlement of holidays, national holidays etc. it is clearly stated in the letter dated 2.3.1988 (Annexure-3) a Watchman who has been categorised as security staff and the matter was being referred to the Ministry regarding their working hours. It is also indicated in this letter that separate order has been issued regarding grant of holidays to a Watchman. No such order has been brought to my notice by either of the sides. Similarly no decision appears to have been taken on the reference made to the Ministry by the Development Commissioner, Small Scale Industries regarding fixation of working hours of a Watchman.

8. For these reasons, the O.A. stands disposed of with the directions to the respondents to grant the benefit of holidays etc. to the applicant as per the orders issued by the Department of Personnel & Training and to decide the matter regarding working hours of a Watchman within a period of six months from the date of communication of this order. The parties shall bear their own costs.

Rajiv Mehta
MEMBER (J)

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