

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH
~~NEW DELHI BENCH~~

(7)

O.A. No. 55 OF 1989.
~~T.A. No.~~

DATE OF DECISION 9.2.1990

M.D. PARIKH

Petitioner

MR. P.S. HANDA

Advocate for the Petitioner(s)

Versus

UNION OF INDIA & ORS.

Respondent s.

MR. N.S. SHEVDE

Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. M.M. SINGH, ADMINISTRATIVE MEMBER.

The Hon'ble Mr.

- Yes 1. Whether Reporters of local papers may be allowed to see the Judgement?
No 2. To be referred to the Reporter or not?
No 3. Whether their Lordships wish to see the fair copy of the Judgement?
No 4. Whether it needs to be circulated to other Benches of the Tribunal?

(8)

M.D. Parikh,
444-F, Railway Colony,
Opp. Sardar Nagar,
Vadodara Yard (395002)
Vadodara - 390 004.

.... Petitioner.

(Advocate: Mr. P.S. Handa)

Versus.

1. Union of India,
Secretary,
Ministry of Railways,
Rail Bhavan,
New Delhi.

2. General Manager,
Western Railway,
Churchgate, Bombay.

3. Divisional Railway Manager,
Western Railway,
Vadodara.

4. Senior Divisional Mechanical Engineer(C&W),
Western Railway,
Vadodara.

..... Respondents.

(Advocate: Mr.N.S. Shevde)

J U D G M E N T

O.A.No. 55 OF 1989.

Date: 9.2.1990.

Per: Hon'ble Mr. M.M. Singh, Administrative Member.

The applicant M.D. Parikh, Wagon Foreman, Baroda Yard, Western Railway, filed this application under section 19 of the Administrative Tribunals Act, to challenge the decision of the respondents in Railway authority by which was rejected his overtime bill for the period from September 1985 to December 1986 preferred on the basis of continuous category (C for short) classification of the nature of his post for eligibility to earn overtime.

2. The applicant rests his claim as the categorisation Divisional Office, Baroda, issued vide No. E/C&W/36 dated 5.1.1987 (Ex. A-1) showing Wagon

Foreman in grade Rs.700-900(R), the post and the pay scale of the applicant, as C category which category is entitled to overtime. The applicant preferred the bill treating the letter of 5.1.1987 as an order in this regard. According to the applicant, this order came to be revised vide letter No. E/L/487/5/0/(L) dated 31.7.87 and his post was decategorised as Supervisory and not entitled to overtime. The respondents have contested the application on the ground that post of WFO (Yard) scale 550-750(R) was in Supervisory (S for short) category even before its upgradation to scale Rs. 700-900 and only sick line WFOs were in C category and that this categorisation remained unchanged and the applicant as WFO (Yard) being in a S category post is not entitled to overtime. It is however, admitted by the respondents that vide Baroda Divisional Office letter No. E/C&W/487/5/13/BRCY dated 13.1.87 an erroneous categorisation was issued which was corrected vide Divisional Office Letter No. E/C&W/487/5/13/BRCY dated 1.6.87.

3. The record has been gone through and the learned advocates of the parties heard. K.S.Kagalkar, APO II BRC, in his reply DO No. E/L/487/5/0/(A)(L) dated 30.4.1986 to M.G. Sovani, SPO(M) CCG's of 26.12.1985, furnished the classification of the Supervisory Staff due to restructuring, mentioning the following for C & W side, the side to which the applicant belongs

C&W Side :-

| | | |
|----------------------|--------------|----------------------------|
| CWI/PRIM | 840-1040 (R) | Supervisory & Inspectorial |
| WFO/CFOS | 840-1040 (R) | All Supervisory as before. |
| BCWIs | 840-1040 (R) | - do - |
| CCRs | 840-1040 (R) | - do - |
| BIG Instructor BRCY. | 840-1040 (R) | - do - |

| | | |
|----------------------|------------|--------|
| CTKRVG, ND, ANND. | 700-900(R) | - do - |
| WFO(Yd.) | 700-900(R) | - do - |
| SBI, BJW, BRCY, VTA. | | |
| WFO-KKF | 700-900(R) | - do - |
| CFO-DB | 700-900(R) | - do - |

It is obvious that WFO (Yd.) 700-900(R) was held as "All Supervisory as before." In Sr. WFO BRCY letter No. E/BRCY/36 dated 30.3.87 addressed to Sr. DME(E) BRC, it was admitted that

"While submitting the list the classification of WFO (YD) scale 700-900(R) was wrongly shown as 'C' instead of 'S' category."

Sr. DME(E) BRC, in his letter No. E/C&W/487/5/13/BRCY dated 1.6.87 addressed to Sr. WFO BRCY informed the latter as below:

"With ref. to the above, it is stated that WFO (Yd) BRCY has been shown as 'Continuous' in classification. Kindly this item may be read as 'Supervisory' classification instead of continuous and corrected accordingly."

In view of the above Supervisory category is not entitled to get O.T. This should be inform concerned employee accordingly."

4. From the above record it is clear beyond any shadow of doubt that the restructured post WFO (Yd.) 700-900(R) was supervisory as before, that the same was mistakenly and wrongly shown as continuous and the mistake was corrected when noticed. No legal and valid rights can be justifiably perceived to arise from genuine mistakes in official correspondence or record which mistakes ^{are} rectified by the authority. It is clear that the applicant has tried to take advantage of such genuine mistake which came to be rectified and the DRM(E) BRC vide his letter dated 5.9.88 addressed to Divisional Secretary WREW BRC 16.9.88 advised the latter to inform the applicant about it.

MA/725/89

in

(12)

OA/55/89

Coram : Hon'ble Mr. M.M. Singh : Administrative Member

19/12/1989

Mr.P.S.Handa, learned advocate for the applicant has intimated by his letter dated 18/12/1989 that he will not be able to attend the hearing on 19/12/1989 and that MA/725/89 may be disposed of by an order in his absence. Mr.N.S.Shevde, learned advocate for the respondent also not present. The documents submitted in MA/725/89 are taken on record. With this order, MA/725/89 stands disposed of.

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~~A~~ ample time has been given to the respondents ^{h but} they have not produced the official papers which are background to Exhibit 'A'. The matter OA/55/89 may be posted for final hearing in due course.

M. M. Singh
(M.M.Singh)
Administrative Member


a.a.bhatt

M. A. 725/89
in
O. A. 55/89

CORAM : HON'BLE MR. M. M. SINGH .. ADMINISTRATIVE MEMBER.

20.12.1989

Mr.N.S.Shevde, the learned advocate for the respondents mentions that O.A.55/89 which was on the board yesterday alongwith M.A. 725/89 ^{is} required submitting certain documents in connection with the direction of the Tribunal. Therefore he may be permitted to submit the documents. As the documents ^{are to be} submitted in accordance with the direction ^{of} the Tribunal, ^{he is} permitted ^{to} with the same. A copy served thereof ^{to} the opposite party. The documents ^{be} taken on the record by the Registry.


(M. M. Singh)
Administrative Member.

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M. A. 25/89

in

O. A. 55/89

CORAM : HON'BLE MR. M. M. SINGH .. ADMINISTRATIVE MEMBER.

17.01.1990

Mr.N.S.Shevde, the learned advocate for the respondents wide M.A.25 has submitted documents with Misc. Application. These documents are relevant to the adjudication of the case. He has given a copy to the applicant's advocate. Mr.P.S.Handa, The learned advocate for the applicant has sent leave note. The documents are taken on record. Misc.Application stands disposed off accordingly. Registry to fix the next date. ⁴Accordingly.

M. M. Singh

(M. M. Singh)
Administrative Member.

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