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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO. 270 OF 1995.
Cuttack, this the 14th day of March, 2001.

SHRI PARAMANANDA BARAL.

APPLICANT.

VERSUS

UNION OF INDIA & OTHERS.

RESPONDENTS.

FOR INSTRUCTIONS

1. Whether it be referred to the reporters or not? *Ans.*
2. Whether it be circulated to all the Benches of the *ND* Central Administrative Tribunal or not?

..... 16.3.2001.
(G. NARASIMHAM)
MEMBER (JUDICIAL)

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CUTTACK BENCH: CUTTACK.

ORIGINAL APPLICATION NO. 270 OF 1995.
Cuttack, this the 14th day of March, 2001.

C O R A M:

THE HONOURABLE MR. G. NARASIMHAM, MEMBER (JUDICIAL).

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SHRI PARAMANANDA BARAL,
S/o. Late Bholi Baral,
watchman, Small Industries Service
Institute, workshop, Vikash Sadan,
College Square, Cuttack. APPLICANT.

By legal practitioner: M/s. S.N. Mohanty, B.D. Swain, Advocate.

- Versus -

1. Union of India represented through its Secretary,
Ministry of Industry, New Delhi.
2. The Director, Small Industries Service Institution,
College Square, Cuttack-3.

By legal practitioner: Mr. S.B. Jena, Additional Standing Counsel.

O R D E R

MR. G. NARASIMHAM, MEMBER (JUDICIAL):

Applicant, a Watchman under Respondent No. 2 prays for issue of direction to the Respondent No. 2 to pay Overtime dues to the applicant for the period from May, 1991 to February, 1995 on the ground that he is entitled to the Overtime dues because the Union of India fixed the duty hours of a Watchman at 48 hours a week under Office Memorandum dated 31-12-1971 (Annexure-2) and his minimum period of duty was fixed at 12 hours a day as per the order dated 18-4-1983 under Annexure-1. He submitted his Overtime claim to Respondent No. 2 in the prescribed proforma for the period from May, 1991 to the end of 1995 but the same was rejected. Earlier he moved this Tribunal in O.A. No. 3/93 in similar relief and this Tribunal in order dated 6-1-1994 allowed the claim and directed the

Respondent No. 2 to pay the Overtime dues. Pursuant to that direction Overtime dues was paid till April, 1991 to the applicant. Thereafter no Overtime dues was paid to the Applicant. Hence this Original Application.

2. The Department in their counter take the stand that as per the Rules a claim for Overtime Allowance shall be considered to have fallen due and due for payment on the first day of the month following the month to which the Over Time Allowance relates. Hence the claim for the period from May 1991 to April, 1992 according to the Department is barred by time as per rules. Further he has not submitted any claim from April, 1992 to February, 1995 for consideration of his claim.

3. No rejoinder filed.

4. I have heard Shri P. K. Padhi, learned counsel and Shri S. B. Jena, learned Additional Standing Counsel appearing for the Respondents. Also he used the records of O. A. No. 3/93.

5. It is not the case of the Department that the applicant had not performed Overtime. They opposed the Overtime claim for the period from May, 1991 to April, 1992 on the ground of limitation and for the period from May, 1992 to February, 1995 no claim was submitted. Hence question of payment, according to the Department, does not arise.

6. Similar point of limitation was taken in O. A. No. 3/93. Yet this Bench allowed the claim of the applicant and issue necessary direction to the Department which has since been complied. Hence on the ground of limitation I am not inclined to dis-allow the claim of the applicant upto the period April, 1992. However, the dispute as to whether the applicant preferred the claim from May, 1992 till February, 1995. Even assuming that

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he has not preferred any such claim, can it be said that the Department would not consider the same suo motte. It is clear from Annexure-R/1, a xerox copy of the Office Memorandum dated 17.7.1965, that in respect of nongazetted Government servants, whose pay and allowances are drawn on establishment bills by the Head of an Office, the responsibility for making claims for drawal of pay and allowances rests with the Head of the Office. Hence it was the responsibility of the Respondent No. 2 to prepare the bill for overtime dues performed by the applicant and disburse the same even without waiting for any claim or representation from the applicant.

7. For the reasons discussed above, I direct the Respondents to draw and disburse the Over Time dues to the Applicant from May, 1991 till February, 1995 within a period of 120 days from the date of receipt of a copy of this order.

8. The Original Application is accordingly allowed.
No costs.

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(G. NARASIMHAM)
MEMBER (JUDICIAL)

KNM/CM.