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CENTRAL ADMINISTRATIVE TRIBUNAL,
CUTTACK BENCH, CUTTACK.

ORIGINAL APPLICATION NO. 376 OF 1995
Cuttack, this the 18th day of July, 2000

Sangram Kesari Das and others Applicants

Vrs.

The Director, Aviation Research Centre
and others Respondents

FOR INSTRUCTIONS

1. Whether it be referred to the Reporters or not? *Yes,*
2. Whether it be circulated to all the benches of the Central Administrative Tribunal or not? *NO*

(G.NARASIMHAM)
MEMBER (JUDICIAL)

Somnath Som
(SOMNATH SOM)
VICE-CHAIRMAN
18.7.2000

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CORAM:

HON'BLE SHRI SOMNATH SOM, VICE-CHAIRMAN
AND
HON'BLE SHRI G.NARASIMHAM, MEMBER(JUDICIAL)

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1. Sangram Kesari Das, son of Birakishore Das,
At/PO-Chasikhanda, District-Jagatsinghpur.
 2. Binod Bihari Patra, son of Panchanan Patra,
At/PO-Sihala, Via-Golanthra, District-Ganjam.
 3. Balaram Samal, son of late Krushna Ch.Sa, At-Dankari,
P.O-Olaver, District-Kendrapara.
 4. Ch.Koteswara Rao, son of Venkata Krishnaiah,
At/PO-Karumanchi, Dist.Guntur (AP)
 5. Sri Suvir Kumar Rao, Qr.No.2RA-31, ARC, Charbatia,
District-Cuttack.
 6. Sadhu Charan Sethi, son of late Jogi Sethi,
Vill-Similihand, PO-Kajalpada, Dist.Cuttack.
 7. Gandharba Charan Behera, son of Karunakar Behera,
Village-Tarasahi, PO-Bisoi, vill-Lataharan,
District-Jagatsinghpur.
 8. Loknath Mohapatra, son of Sudhakara Mohapatra,
At-Rambila, PO-Basandara, District-Jagatsinghpur.
 9. Param Suranjana Das
son of Issac Das
Vill-Mandapada,
P.O-Daulatabad,
Dist.Cuttack.
 10. Umesh Ch.Mohanty,
son of late R.k.Mohanty,
At-Ananda Bhawan,
Talatelenga Bazar,
Dist.Cuttack.
 11. Bhubaneswar Mishra,
son of late P.Mishra
At-Bhajadeipur,
PO-Sadasivapur,
District-Dhenkanal.
 12. Harihar Singh, son of
Maheswar Singh,
At-Dagarpada,
Dist.Jajpur.
 13. BIRENDRA Prasad Mohanty, son of D.P.Mohanty,
At-Amulapada, P.O-Angul, Dist.Angul.

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14. Kelucharan Nayak, vill-Tarasahi, PO-Rison, District-Jagatsinghpur.

15. S.K.Roy, Village-Tarasahi, PO-Risol, District-Jagatsinghpur

..... Applicants

Advocate for applicants - Mr.D.R.Pattnaik

Vrs.

1. Director, Aviation Research Centre, Directorate General of Security, Cabinet Secretariat, East Block-V, R.K.Puram, Headquarters, New Delhi.110 066.

2. Deputy Director (Administration), Aviation Research Centre, At/PO-ARC Charbatia, District-Cuttack.

3. Cabinet Secretary, Central Secretariat, New Delhi.

..... Respondents

Advocate for respondents-Mr.Akhaya K.Misra A.C.G.S.C.

O R D E R

SOMNATH SOM, VICE-CHAIRMAN

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In this Application under Section 19 of Administrative Tribunals Act, 1985, the fifteen petitioners have prayed for a direction to the respondents to reduce the working hours of the petitioners to 6 hours 40 minutes per day instead of 8 hours and to 40 hours in a week and also for giving them one day rest and one day off. They have also prayed for a direction to the respondents to grant two days off with usual holidays if the applicants are allotted 8 hours work in a shift. The next prayer is for a direction to grant extra financial benefits to the petitioners for rendering 1 hour 20 minutes extra work in comparison with other employees. The last prayer is to quash the order dated 15.3.1995 at Annexure-4.

2. The case of the applicants is that they are all operational staff working in the Fire Service

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Section under Air Traffic Control (ATC) and Air Wing Operation in Aviation Research Centre (ARC), Charbatia. There are three shifts for operational staff from 6 A.M. to 2 P.M., from 2 P.M. to 10 P.M., and from 10 P.M. to 6 A.M. The applicants are rendering 8 hours work in a shift. They are not getting two days off in a week though five-day work schedule stipulates 8 hours work per day and two days off in a week. The other employees of ARC are rendering only 6 hours 40 minutes duty per day and getting the second Saturday off along with usual holidays. This, according to the applicants, is discriminatory and violative of Articles 14 and 16 of the Constitution. For doing 1 hour 40 minutes additional work they are not getting any financial benefits. For removing the above injustice applicant no.1 filed a representation on 27.7.1993 (Annexure-1) praying either to maintain status quo (i.e. 8 hours work shift) with two days off and usual holidays or to reduce the working hours to 6 hours 40 minutes per day with second Saturdays off along with holidays. Reminders were also sent on 17.3.1994 (Annexure-1/1 and 20.8.1994 (Annexure-1/2) but without any response. The other applicants also represented individually and representations are at Annexure-2 series. The applicants approached the Tribunal in OA No.763 of 1994 which was disposed of on the date of admission in order dated 30.12.1994 (annexure-3) directing that suitable reply to the representation at Annexure-1 in the form of a speaking order by the Deputy Director (A), ARC, Charbatia (respondent no.2) should be given to the applicants within 40 days from the date of receipt of copy of the order. The applicants were given liberty to agitate their grievances, if any, after disposal of the representation. Accordingly, respondent no.2 in a speaking order dated 15.3.1995 at Annexure-4 decided that the

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12 existing working hours schedule in respect of ARC Fire Service personnel should continue. The applicants have further stated that a similar type of case has been filed by certain other employees of ARC, Charbatia in OA No.115/95 and that is pending for final disposal. It is further stated that the Fourth Pay Commission had recommended that working hours for all offices in ARC should be 40 hours a week and this was accepted by the Central Government. But the applicants are denied the benefit of this while their counterparts are working only for 6 hours 40 minutes per day. It is further stated by the applicants that their duties and responsibilities are almost akin to those prevailing in National Airports Authority and International Airports Authority of Indi. In ARC the applicants handle 50 metres aircraft whereas in NAA Centres the length of aircraft is 50 metres or less. The fire fighting survival time at the centres of ARC, NAA and IAAI is the same, i.e. 2.5 minutes to 3 minutes. The fire fighting vehicles are also the same. Besides the applicants handle extra duty which is riskier than those performed in NAA. The applicants have also pointed out that Ministry of Finance in their Note, copy of which is at Annexure-5, have pointed out that there is no justification that fire staff in ARC forming a smaller contingent should have either the pay scales at par or higher scales of pay as compared to those obtaining in NAA as proposed by the expert committee. It was also noted in this that the expert committee has rightly held that duties and responsibilities of ARC fire service staff have no relativity with Field Assistants and Senior Armourers of ARC and therefore there cannot be any comparison with the pay scales of these posts. The applicants have further submitted that in all matters the service conditions of the applicants are compared with those of the employees of NAA. But in the matter of giving

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financial benefits, such comparison is ignored. In view of this, the applicants have come up in this petition with the prayers referred to earlier.

3. The respondents in their counter have opposed the prayers of the applicants. They have indicated that no representation other than those submitted by the applicants 1 and 10 and two other employees who are not the applicants in the OA was received for reducing their working hours. They have stated that in response to these representations the decision has already been communicated to the applicants and this has been upheld by the Tribunal in CP No.27/95. It is further submitted that the applicants have not challenged any order before the Tribunal and therefore the application is not maintainable. The respondents have stated that the applicants are working in ARC Fire Service, but it is not correct that they come under the control and administration of Air Traffic Control (ATC). It is also admitted that the applicants are rendering 8 hours work in a shift and are not getting two days off in a week. the respondents have stated that this working hours schedule is also followed by NAA and IAAI and several other Government organisations who have fire service establishment. Therefore, the ARC Fire Service being the operational unit functions "8 hours duty per day" and the Fire Service personnel do not observe all the holidays like administrative wings. The five days work schedule issued by the Department of Personnel & Training in their O.M. dated 21.5.1985 (annexure-R/2) is only applicable to the administrative offices of Government of India. As the fire service is not an administrative unit but an operational unit the applicants are not covered by the above Office Memorandum. The respondents have further

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stated that in the O.M. dated 21.5.1985 there was only change in the working hours in all administrative offices under the Central Government and this change in working hours was not specifically for ARC . This was only a change but not reduction in the working hours. The prevailing 40 hours of working per week remained unchanged and instead of six days work in a week, the office remained functional for five days. The respondents have stated that as regards operational staff no change in the working hours was ordered by the Government. Accordingly, in paragraph 2 of the order of the Director, ARC, at Annexure-R/3, it was clearly ordered that there would be no change in the existing times. It was also laid down that these operational units will not observe all Saturdays as holidays like the administrative wing. It is further stated that ARC is a security organisation under Director General of Security and deals with national security. Certain operations are carried out round the clock and therefore, rotational duties for the operational staff are allotted to suit operational requirements. It is further stated that in other Central Government organisations, fire service personnel are performing 48 hours duty in a week, i.e., 8 hours duty per day for six days. The letter from C.I.S.F. confirming that CISF Fire Wing follows three shifts duty i.e., 48 hours duty per week with one weekly off is at Annexure-R/4. The letter dated 17.1.1995 from Delhi Fire Service indicating that Delhi Fire Service personnel perform 72 hours continuous duty and avail 24 hours day off after the 72 hours duty is at Annexure-R/4. The respondents have stated that before issuing of the speaking order at Annexure-R/1, NAA, IAAI and several other Government/Non-Government organisations who have fire service establishment were consulted and working hours

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schedule followed by them were obtained. All such organisations follow 8 hours duty per day, i.e., 48 hours per week or even more. Less than 8 hours duty per day, i.e. 40 hours duty per week, for fire service personnel is not followed in any organisation. The applicants were advised in paragraph 3 of the speaking order that in case such working hours schedule is being followed in some other comparable organisation, the same may be indicated so that the matter could be examined. But the applicants have not been able to cite any other example. As regards comparison between ARC fire service staff and NAA and IAAI personnel, the respondents have pointed out that both the categories perform equally risky work. For example, ARC does not have a fire service establishment at Palam to look after its air operations and when its aircrafts carrying explosive items land at Palam, these aircrafts are provided adequate fire protection by the fire service personnel of NAA. It is also stated that NAA and IAAI fire service personnel handle more number of much bigger aircrafts(national and international standards) and the volume of their workload per day is very high compared to ARC fire service personnel. The respondents have further stated that the prayers of the applicants as mentioned in their representations have been dealt with after proper examination and application of mind by the speaking order at Annexure-4 of the OA and at Annexure-R/1 of the counter, and the Tribunal may take that into account while adjudicating the dispute. On the above grounds, the respondents have opposed the prayers of the applicants.

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4. The applicants in their rejoinder have reiterated their prayers in the OA. They have reiterated that ARC fire service personnel perform 8 hours duty per day whereas other ARC employees perform less hours of duty.

For example, the applicants have stated that the schedule of duty hours of MT Drivers has been fixed at 7 hours per day in letter dated 1.2.1995 (Annexure-7). They have also reiterated that the fire service personnel work under ATC whereas ATC staff are performing 7 hours duty and avail second Saturday and other Government holidays whereas the fire service personnel are performing 8 hours duty per day, i.e. 48 hours duty in a week with one day weekly off without availing second Saturday and other Government holidays. It is further stated that ARC is extracting 8 hours duty from their fire service staff following the duty hours at par with NAA and IAAI, but the benefits which are being enjoyed by fire service staff of NAA and IAAI are not allowed to fire service staff of ARC. In this connection, they have mentioned that ^{the pay scale of} Fire Operators of NAAI is Rs.1050-1990/- whereas the pay scale of Fire Operators of ARC is Rs.950-1500/-. They have stated that if 8 hours duty is taken from them, then they should be allowed some benefits/monetary benefits which are allowed to fire service personnel of NAA and IAAI. They have also mentioned about their promotional prospects which do not concern us directly in the present application. They have also pointed out that ARC staff at Charbatia do not have many facilities like Kendriya Vidyalaya, etc. which are available to such staff in other stations. They have also stated that the volume of workload between fire service staff of ARC and similar staff of NAA and IAAI is not the relevant consideration as all the staff of NAA in all the airports in India irrespective of their workload get the same pay and facilities. On the above grounds, the applicants have reiterated their prayers in the OA.

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5. We have heard Shri D.R.Patnaik, the learned counsel for the petitioners and Shri Akhaya Kumar Mishra, the learned Additional Standing Counsel for the respondents and have also perused the records.

6. The learned counsel for the petitioners has submitted a tabular statement indicating the scales of pay and the benefits given to the fire service personnel in NAAI and the facilities given to the fire service personnel in ARC and this has also been taken note of.

7. The main prayer of the applicants is for reducing their duty hours from 8 hours per day, i.e., 48 hours per week, to 6 hours 40 minutes per day and 40 hours in a week along with one day rest and one day off. They have also claimed for availing second Saturday and usual Government holidays. The admitted position is that these applicants who are fire service personnel are doing 8 hours work per day and 48 hours work per week with one weekly off. They are working for six days weekly schedule and also not availing the usual Government holidays. In support of their prayer, the applicants have stated that the other staff working in ARC are having less amount of duty hours and also enjoying more number of holidays. For the administrative staff of ARC a five-day weekly schedule is followed and their duty hours are 8 hours per day. They have also pointed out that for MT Executive Cadre of Drivers (Senior Field Assistants) the duty hours which were earlier 48 hours have been reduced to 42 hours. The respondents have pointed out that five-day week schedule has been introduced by the Department of Personnel & Training in their O.M. dated 21.5.1985 at Annexure-R/2 only for civil administrative offices. They have also pointed out that in this order which is at Annexure-R/2 the duty

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hours in civil administrative offices have not been reduced but only six-day week schedule has been changed to five-day week. The respondents have pointed out that fire service personnel belong to operational staff and the five days working schedule is not meant to be enforced in operational offices. On the above grounds the respondents have opposed the prayer of the applicants. A bare reference to the letter dated 21.5.1985 at Annexure-R/2 issued by the Department of Personnel & Training introducing five-day week in the administrative offices of the Government of India makes it clear that in this order five-day week schedule has been introduced only for administrative offices. There is no reference in this order that five-day week has to be introduced for operational organisations as well. It is only logical because the working schedule in an operational organisation will have to follow the operational requirement of the organisation and no uniform norm can be adopted. The respondents have pointed out that in organisations like NAA and IAAI and other fire service organisations fire service personnel perform 8 hours of work per day and 48 hours per week. They all follow a six-day week schedule. In some cases like Delhi Fire Service organisation, the duty hours are 72 hours which is much more than what the applicants have to perform. The respondents have further stated that they have asked the applicants to cite examples of any fire service organisations where the fire service personnel are performing work for less than 48 hours per week and eight hours per day which the applicants have not been able to cite any such example. In the pleadings before us also no such example of any fire service organisation prescribing less than 48 hours duty per week and 8 hours duty per day has been cited by the applicants. Therefore, this aspect of the contention of the applicants cannot be accepted.

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8. The second aspect of the same prayer is that the applicants have stated that staff working in other wings of ARC, Charbatia are performing less hours of duty. Being staff of an operational organisation they cannot compare themselves with staff in the administrative wing and on the basis of such comparison they cannot stake a claim for reduction of their duty hours. The applicants have further stated that duty hours of MT Executive Cadre Drivers (redesignated as Senior Field Assistants) have been reduced from 1995 from 48 hours to 42 hours per week and on that analogy the applicants also want that their duty hours should be reduced. The nature of duties and responsibilities of Drivers in MT Executive Cadre and the fire service personnel in ARC, Charbatia is totally different and therefore it would not be logical to compare the duty hours of fire service personnel with the MT Executive Cadre drivers.

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9. Lastly it has been claimed by the applicants that fire service personnel work under Air Traffic Control. The staff of ATC have lesser hours of duty and greater number of holidays and the same should be allowed to the applicants. The respondents have stated that fire service personnel do not work under Air Traffic Control. The applicants in their rejoinder have pointed out that fire service personnel work only under the direction of the Air Traffic Control. Here again the nature of work of the fire service personnel and ATC staff is totally different and a comparison between the working hours of the two categories would not be valid. The fact of the matter is that fire service personnel in all organisations perform 48 hours duty per week and 8 hours duty per day. The applicants have not been able to cite any example of any organisation where fire service personnel work for less than 48 hours per week and 8 hours per day. In view of

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this, this claim of the applicants is held to be without any merit and is rejected. Necessarily, therefore, as they are required for six days in a week, their claim for availing of second Saturday is also held to be without any merit.

10. The next prayer is to allow them one rest day and one weekly off day. The applicants are getting one weekly off day because they are working on six-day week working schedule. Over and above they want one weekly off day. It is the common ground between the parties that these fire service personnel are assigned duty on a rotational basis in three shifts and obviously in between the shifts rest period is provided to those who go off duty at a certain hour. Over and above this the claim for one more rest day has not been supported by any example of any other fire service personnel in any organisation who enjoy such facilities. This claim is also therefore held to be without any merit. As we have held that the applicants are required to perform 8 hours duty per day their claim for getting financial compensation for doing 1 hour 20 minutes of work beyond 6 hours 40 minutes is also held to be without any merit.

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11. The learned counsel for the petitioners in course of the submissions has pointed out that in the speaking order at Annexure-4 the claim of the applicants for reduction of duty hours from 48 hours to 40 hours in a week has been rejected on the ground that the fire service personnel of NAA and IAAI are performing 48 hours of duty on six-day week working schedule. It is submitted by the learned counsel for the applicants that while the prayer of the applicants for reduction of duty hours has been rejected by comparing the duty hours with those performed by similar staff in NAA and IAAI, the fire

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service personnel of ARC, Charbatia, are not getting the same financial benefits as similar staff in NAA and IAAI. In support of his contention, the learned counsel for the petitioners has filed a tabular statement which has also been taken note of. In the OA claims like higher scales of pay, washing allowance, transport allowance, canteen allowance, tuition fees, night duty allowance, etc., have not been mentioned and therefore the respondents have not given their reply to these claims. Moreover, equality in scales of pay and allowances mentioned above is a matter to be considered by expert bodies like Pay Commission, etc. and therefore, granting of these facilities to the applicants at par with those enjoyed by fire service personnel in NAA and IAAI cannot be considered in this OA.

12. In the result, the Original Application is held to be without any merit and is rejected but, under the circumstances, without any order as to costs.

(G.NARASIMHAM)
MEMBER(JUDICIAL)

(SOMNATH SOM)
18.7.2000
VICE-CHAIRMAN