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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH : CUTTACK

ORIGINAL APPLICATION NO. 544 OF 1999
Cuttack this the 09th day of April/2001

Paresh Chandra Mohanta

...

Applicant(s)

-VERSUS-

Union of India & Others

...

Respondent(s)

(FOR INSTRUCTIONS)

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

Somnath Som
(SOMNATH SOMNATH)
VICE-CHAIRMAN
9.4.2001

9.4.2001
(G. NARASIMHAM)
MEMBER (JUDICIAL)

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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH : CUTTACK

ORIGINAL APPLICATION NO. 544 OF 1999
Cuttack this the 09th day of April/2001

CORAM:

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

...

Sri Paresh Chandra Mohanta, aged about 36 years,
Son of Late Mukunda Chandra Mohanta, Vill: Golagadia,
PO: Kishudahi, Via: Shyamkhunita, Dist-Mayurbhanj
at present working as Temporary Mail Escort in the
Office of S.R.O., Baripada, Sorting Post Office

...

Applicant

By the Advocates

M/s. P.C. Acharya
A.C. Mohapatra

-VERSUS-

1. Union of India represented through Secretary,
Dept. of Posts, New Delhi
2. Chief Post Master General, Orissa Circle
3. Superintendent of Post Offices, Mayurbhanj
Division, Baripada-757001
4. Post Master, Baripada Head Post Offices,
At/PO-Baripada, Dist - Mayurbhanj
5. S.R.O., Baripada Sorting Post Office,
Baripada-757001, Dist - Mayurbhanj
6. Sub-Divisional Inspector (Postal)
Baripada West Sub-Division, Baripada
Dist - Mayurbhanj

...

Respondents

By the Advocates

Mr. BK Nayak
A.S.C (Central)

ORDER

is

MR. G. NARASIMHAM, MEMBER (JUDICIAL): Applicant, /a Temporary
Mail Escort in the office of S.R.O., Baripada Sorting Post
Office. Since 1.4.1980 he has been in charge of Baripada-Joka
Line. Earlier he along with two others approached this
Tribunal in O.A. 312/88 for regularisation of services and
for payment on pro-rata basis at par with the departmental
employees. While disposing of that Original Application on
19.12.1988, this Tribunal observed as follows :

*We would direct that the observations of their

Lordships in the case of Surinder Singh (Supra) be given effect to so far as the present petitioners are concerned whenever vacancy arises and subject to their suitability".

As regards payment of wages on pro rata basis, observation is as follows :

"...We hope that the competent authority would respect the directives given by the D.G. Posts on the basis of the observations of their Lordships of the Hon'ble Supreme Court and would grant necessary wages in favour of the petitioners and arrears should be paid to the petitioners within three months from the date of receipt of copy of this judgment ..."

2. The applicant again approached this Tribunal in O.A.145/95 for implementation of the above orders in regard to payment of wages on pro rata basis with a specific prayer for quashing order dated 12.4.1991 fixing his remuneration at Rs.507/- for carrying/escorting mail in Baripada Joka Line, by pleading that he is entitled to get wages at the rate of Rs.25/- per day as he performs the duties for eight hours by reporting at 10.00 A.M. at Baripada Office to receive mail bags and to reach Baripada bus stand which is 3 kms. away to board bus for Joka and returns to Baripada in the same bus at 17 hrs. and ~~17 hrs.~~ over the mail bags at the office at 18 hrs. The Department resisted that O.A. pleading that as per the R.T.O's letter dated 19.3.1994, the bus ^{leaves} ceases at Baripada at 11 A.M. and returns at 4.30 P.M. The applicant reports at the office at 10.30 A.M. and returns the bags at 5.P.M. and thus his duty period being 6 hours 30 minutes, wages have been fixed at Rs.20.30 per day. This O.A. was disposed of on 20.11.1997 with the following observations and directions.

"In consideration of that prima facie it appears that the applicant is actually performing ^{eight} ~~eight~~ hours of duty. I have, however, seen only the register of the Sorting Office which gives the hours for about two months. In view of the above, it is ordered that the respondents should check up the mail receipt and despatch register in the

Sorting Office for a number of days and accordingly fix the duty hours of the applicant. It is made clear that the respondents should go by the actual hours on the average spent by the applicant on duty ... Needless to say that the applicant will have the liberty to approach the Tribunal if he has any grievance with regard to the fixation of duty hours in the manner indicated by me earlier".

3. The present O.A. has been filed along with the final order in O.A.145/95(Annexure-A/1) for payment of wages on the pro rata basis taking duty hours as 10 A.M. to 6. P.M. and for disbursement of wages from August, 1999 onwards, which were not paid to him even though he has been performing duties as usual.

4. The Department in their counter did not specifically deny the applicant's claim as to non payment of wages since August, 1999 inspite of he being on usual duty. According to them time spent for covering the distance between the Sorting Office to private bus stand and back to the office in rickshaw load is only 40 minutes. His total work/comes to 6 hrs. 30 minutes. In order to suit the claims of work load by 8 hours, the applicant had shown false timings of receipt and delivery in the relevant registers of the Sorting Office.

5. In the rejoinder the applicant reiterated his claim of eight hours duty.

6. We have heard Shri P.C.Acharya, learned counsel for the applicant and Shri B.K.Nayak, learned Addl.Standing Counsel for the Respondents. Also perused the record.

7. The only point for determination is whether the applicant is under engagement on duty for about eight hours per day. In Para-6 of the counter it has been stated that in the concerned registers at the Sorting Office, the applicant had intentionally shown timings in order to make his work load of eight hours. Apparently the respondent had verified the

registers pursuant to the direction of this Tribunal in O.A.145/95. In other words what they mean is that timings entered by the applicant are false even though they certified eight hours work load. It lacks improbable that the Deptt. officials, who are the custodian of those records would be ^{made} ~~made~~ spectators to the so called false timings shown by the applicant in those records and that too for at least a decade. At this stage it is profitable to quote the following observation of the Tribunal in Para-6 of the order in O.A.145/95 which have since become final.

"...Anybody conversant with the ~~suburban~~ bus service in Orissawould know that these buses never run on time and delay of half an hour to one hour in a to and fro journey from 11 am to 4.30 p.m. is taken as a matter of course by all including the passengers. As such it would not be correct to reject the contention of the applicant that his duty hours cover eight hours ..."

This observation was made with reference to the then R.T.A. timings showing departure and return as 11 A.M. and 4.30 P.M. But the latest R.T.A. timing relied on by the Department vide Annexure-R/1 dated 25.12.1999 are 11 AM and 4.50 PM (not 4.30 P.M.) This apart at the bottom it has been specifically mentioned that besides the stoppages mentioned, vehicle should make every stoppage on the route as per the demand of the travelling public on the route at the rate of 26 paise per Km. per passenger subject to a minimum of Rs.2/- irrespective of K.m. travelled. Going by the aforesaid observation in O.A.145/95 and taking note of latest R.T.A. timings and conditions and bearing in mind the improbability part of the allegation in the counter as to the false timings shown by the applicant, we would ^{become} be parties to great injustice

if we do not accept the applicant's claim of eight hours work load. As earlier stated in the counter there is no denial as to the non payment of wages from August/99 onwards.

8. We therefore, direct the respondents to treat the duty period of the applicant from 10 A.M. to 6. P.M. and accordingly recalculate his wages by suitably modifying their order dated 12.4.1991 (Annexure-6 of the O.A.145/95) and thus disburse the amount due to the applicant as on to-day as per their recalculation, as early possible, but not later than 90 (Ninty) days from to-day.

9. O.A. is thus allowed, but without any order as to costs.

Somnath Som
(SOMNATH SOM)
VICE-CHAIRMAN

9.4.2001
(G.NARASIMHAM)
MEMBER (JUDICIAL)

B.K.SAHOO//