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CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH: CUTTACK

OA No.400 of 2010  
Cuttack, this the 13<sup>th</sup> day of March, 2012

CORAM  
THE HON'BLE MR.C.R.MOHAPATRA, MEMBER, (ADMN.)  
AND  
THE HON'BLE MR.A.K.PATNAIK, MEMBER (JUDL.)

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Khageswar Jena, aged about 36 years, Son of Lochan Jena, Village-Gomundia, Po.Titipo, Via-Balugaon, Ps-Krushna Prasad, Dist.Puri at present working as T.M.A UNDER Station Superintendent, ECoRly, Talcher.

....Applicant

By legal Practitioner-M/s.N.R.Routray,S.Mishra,T.K.Choudhury, Counsel

-Versus-

1. Union of India represented through the General Manager, East Coast Railway, Rail Vihar, Chandrasekharpur, Bhubaneswar, Dist. Khurda.
2. Sr. Divisional Operating Manager, East Coast Railway, Khurda Road Division, At/Po.Jatni, Dist. Khurda.
3. Sr. Divisional Personnel Officer, East Coast Railway, Khurda Road Division, At/Po-Jatni, Dist. Khurda.
4. Station Superintendent, East Coast Railway, Gorekhanath, At/Po.Gorekhanath, Dist. Jagatsinghpur.
5. Divisional Railway Manager, ECoRly, Khurda Road Divison, Jatni, Dist. Khurda.

....Respondents

By Legal Practitioner - Mr.M.K.Das, Counsel

ORDER

C.R.MOHAPATRA, MEMBMER (ADMN.):

The grievance of the Applicant in this O. A. is that his claim for OT for the duty performed by him over and above his duty hours as pr the details given at Annexure-A/3 has not been disbursed to him. He submitted representation for settlement of such dues but the Respondents rejected the same in Annexure- A/7. Hence by filing this O. A. he seeks to quash the letter of rejection dated 05-07-2010 and to

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direct the Respondents to pay his OT dues for the period from 30.04.2006 to 07.07.2007 as per Annexure-A/3.

2. The Respondents disputed the stand taken by the applicant in support of the relief claimed in this OA on the ground that he is not entitled to the OT and, therefore, his representation was rightly rejected. The Respondents, in their counter, have stated that the applicant was working as Senior Token Potter (Sr.TP) under the Station Superintendent/Gorakhnath(SS/GRKN) since March, 2001. The post of TP comes under the classification of Continuous Category for which the working hour of roster is 8 hours per day. Due to casualty at Level Crossing (LC) Gate, the applicant was deputed to work at LC Gate No. at Km 452/5 as Gate Keeper (GK) from time to time. The category of GK comes under the classification of Essentially Intermittent (in short E.I). The employees who come under the classification of E.I have to perform 12 hours of duty per day as per EI roster whereas in continuous roster one has to perform 8 hours per day. In continuous roster OT is claimed in 14 days spell whereas in E.I roster OT is claimed in 7 days spell. The initial course of training for both the category is same. The Applicant earlier claimed OT w.e.f. 30.4.2006 to 07.07.2007 beyond 8 hours in continuous Roster as if he has performed duty as Sr. T.P. though he was actually utilized in EI roster. Hence he should

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have claimed OT in EI roster beyond 12 hours. The Senior Divisional Personnel Officer, KUR vide letter dated 26.12.2009 intimated the Controlling Authority of the applicant that when an employee who is in continuous roster, if deputed to work in a post for which EI Roster is applicable, then the employee can claim OT in terms of EI Roster of GK only and not in terms of continuous Roster of TP. Hence OT claims submitted treating the continuous Roster of TP as base is not in order and only OT which is calculated treating the EI roster of GK as the base should be allowed. Hence OT for the said period was not paid to the Applicant.

3. Learned Counsel appearing for the both sides have reiterated the stand taken in their respective pleadings and having heard them at length, we have perused the materials placed on record.


4. From the pleadings and materials placed in support thereof, it is revealed that the Applicant during the relevant period was not a regular Gate Keeper. The reason given in the counter for not allowing the OT is meant for a regular Gate Keeper but not Senor Token Potter who has been detailed to work as Gate Keeper to meet the urgent need of the Department. Therefore rejection of the claim of the applicant by applying the rules applicable to a regular Gate Keeper is not justified. This apart, the working of the applicant beyond normal

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duty hour is not in dispute. Applicant's case for similar treatment as in the case of two other potters also merits consideration. As a matter of fact, he is substantively appointed as Sr. Potter meant to do work eight hours per day. Taking work beyond the period in the exigency of service while cannot be faulted, it is reasonably expected to compensate him adequately for the extra work irrespective of the category of the post. Hence, we find sufficient reason in support of the relief claimed in this OA and accordingly, the order under Annexure-A/7 is hereby quashed. Liberty is given to applicant to submit his claim (giving details of his over time work) within a period of fifteen days before the Respondents and the Respondents are hereby directed to scrutinize the claim with reference to the records and sanction the OT in favour of the Applicant for the extra work beyond eight hours per day within a period of fifteen days from the date of receipt of the claim as aforesaid.

5. With the above observation and direction this OA stands disposed of. No costs.

  
(A.K.PATNAIK)  
Member (Judicial)

  
(C.R.MOHAPATRA)  
Member (Admn.)