

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

CALCUTTA BENCH

O.A. 832 of 1996

Present : Hon'ble Mr. D. Purkayastha, Judicial Member.

Shri Krishna Prosad Shaw

-v e r s u s-

Union of India and Ors.

For the applicant : Mr. B. Mukherjee, counsel.

For the respondents : Ms. U. Sanyal, counsel.

Heard on 8.1.98

Order on 8.1.98

O R D E R

D. Purkayastha, JM

One Shri Krishna Prasad Shaw has approached this Tribunal by this application under section 19 of the AT Act for direction upon the respondents to grant overtime allowance to him, as he worked more than 9 hours per day and more than 45 hours in a 5 days week regularly. According to the applicant, similar case came up before this Tribunal in O.A. No. 383 of 89 (Sreedhar Bose Vs. Union of India and Ors.) and that has been disposed of by judgment dated 23.4.90 (Annexure-A/1 to the application). Thereby he is also entitled to get the similar benefits since he has been performed the work or duty more than 9 hrs. a day.

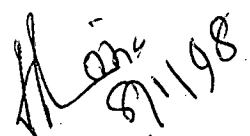
2. The case is resisted by the respondents by filing written reply in which they took the plea that the applicant falls under Essentially Intermittent Staff Category of "HOER" and he has performed 12 hours duty for 5 days a week availing rest. Accordingly he was not paid O.T. Thereby the application should be dismissed. Mr. Mukherjee, Id. counsel for the applicant has drawn my attention to the para 3 of the judgment in O.A. 383 of 89 decided on 23.4.90 & submitted that similar question has been considered by the Division Bench of this Tribunal and the said plea of the respondents was rejected. Since the applicant falls in the similar circumstance thereby there should not be any discrimination in respect of granting of O.T. allowance to the applicant. So application should be allowed.

3. Ms. Sanyal, Id. counsel for the respondents submits that there is no other ground except the ground stated in the para 10 of the reply

"HOER", accordingly he was not paid, which may be justifiable ground for denying the overtime allowance to the applicant.

4. I have considered the submission of the Id. counsel for both the parties and I have gone through the judgment passed by the Division Bench of this Tribunal in O.A. 383 of 89 dated 23.4.90. It is found that the Hon'ble Division Bench of this Tribunal after hearing both the parties rejected the plea of the respondents and directed the respondents to make payment of the overtime allowance to the Chowkidar if he had worked for more than 9 hrs. per day for five days in a week and the overtime allowance shall be payable to the applicant for the period from 1.5.88 till such time he continued to hold the post of Chowkidar. So, it is found that the question in dispute is covered by the said judgment and thereby the applicant is entitled to get overtime allowance if he performed the work 9 hrs. in a day from 18.8.93. Accordingly I allowed the application holding that applicant is entitled to get the similar reliefs as granted by the Tribunal in O.A. 383/89 in Sreedhar Bose Vs. Union of India and Ors. case if he had performed for more than 9 hrs. in a day as per order of the authority.

5. In view of the circumstances, the overtime allowance shall be payable to the applicant for the period from 18.8.93 till such time he holds the post of Chowkidar. Accordingly, I direct the respondents that the payment of overtime allowance with arrears be given to the applicant within three months from the date of the communication of this order. Accordingly application is disposed of without awarding no costs.

  
( D. Purkayastha )  
M e m b e r (J)

a.k.c.