

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

CALCUTTA BENCH

O.A. 79 of 96

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

Pravati Kundu & Ors.

-v e r s u s-

Union of India & Ors. (E.Rly.)

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

For the respondents : Mr. C. Samaddar, counsel.

Heard on 15.1.98

Order on 15.1.98

O R D E R

D. Purkayastha, JM

I have heard both the parties at length. Due to denial of overtime allowance amounting to Rs. 20,000/- for the period from August 1974 to 1982 to the applicant late Sri Yudhisthir Kundu who died during the pendency of the case and who was substituted by his legal representatives by an order dated 1.5.97 has approached this Tribunal for direction upon the respondents to make payment of the O.T. allowance for the period as claimed with interest at the rate of 18% per annum. According to the applicant late Sri Yudhisthir Kundu retired on 1.5.84 and before that he submitted the claim of O.T. allowance for different dates; but the respondents did not make payment of the O.T. allowance as mentioned at page 15 of the application. According to the applicant he was entitled to get O.T. allowance but the respondents did not make payment till date. Thereby direction can be issued to the respondents to make payment of the O.T. allowance as claimed in the application filed by the applicant in this case.

2. The respondents denied the claim by filing a reply. It is stated in the reply that the applicant did not submit the O.T. vouchers for the years 1974, 1975, 1976, 1981 and 1982 except year of 1977 for which he has already been paid as evident from Annexur-A/2 to the application and the rest claims could not be made due to non-submission of the O.T. vouchers for several years. It is also stated that application is barred by limitation since the applicant has raised the claim of O.T.

allowance after lapse of more than 11 years. It is also stated that the applicant retired from service in the year of 1984 as Chief Weighment Clerk and filed this O.A. in the year 1996. It is also stated that the applicant was intimated by the authority that the applicant did not submit the O.T. vouchers for five years. The payment could not be made for want of vouchers from the applicant. Therefore, the application is liable to be dismissed as it is devoid of merit.

3. Mr. Mukherjee, Id. counsel appearing on behalf of the applicant submits that it is the duty of the respondents to make payment of the O.T. allowance to the applicant since deceased employee rendered service in the Department and he was entitled to get benefit of duty in respect of overtime allowance. Despite repeated demands, he was not paid.

4. Contrarily, Mr. Sammadar, Id. counsel for the respondents submits that application is hopelessly barred by limitation and admittedly the claim of O.T. allowance related to the period from August 1974 to 1982. The applicant already retired from service in the year 1984 and after lapse of 11 years, he raised the claim of O.T. allowance thereby, the application is liable to be dismissed on ground of limitation.

5. Mr. Sammadar, Id. counsel for the respondents submits that the applicant did not submit the requisite vouchers in support of his claim thereby, payment could not be made to him. I have considered the submission of both the parties and perused records as well as the documents produced by the parties. It remains undisputed in this case that the applicant has come before this Tribunal after lapse of about 11 years. The contention of Mr. Mukherjee, Id. counsel is that the question of O.T. allowance is a running cause of action and thereby, application cannot be said to be barred by limitation. But Mr. Samaddar submits that even if claim of O.T. allowance is found genuine the application is liable to be rejected on the ground of limitation, as the applicant did not come to the court or Tribunal within the prescribed period of limitation.

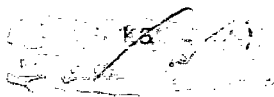
6. In the light of the facts stated in this application, there is no doubt in my mind that the claim of the applicant is a belated one but it would be inequitable to grant relief to the applicant in the light of the judgment of the Hon'ble Apex Court reported in *Port Trust of Madras Vs. Hymanshu International*, where their Lordships held,

(AIR 1979 SC 1144)

"It is high time that governments and public authorities adopt the practice of not relying upon technical pleas for the purpose of defeating legitimate claims of citizens."

The Dy. Chief Mining Engineer, Saunda 'D' Colliery by a letter dated 18.10.82 (Annexure-A/7 to the application) intimated the Divisional Railway Manager, Eastern Railway, Dhanbad, stating that they have already paid the overtime allowances of the applicant to the Railway for the period 30.12.80 to 20.4.81 and 28.7.81 to 20.8.81 against bill Nos. 411/DHN/S/82 and 502/DHN/S/42 and dated 20.2.82 and 27.5.82 respectively. But payment has not yet been made to the person concerned. It is found from that letter (Annexure-A/7) that he performed the O.T. duty in the colliery and they approved the bills and made payment of the O.T. allowance to the railway respondents for making payment to the applicant and that has not been paid. In view of the aforesaid circumstances, I cannot accept the contention of the Id. counsel, Mr. Samaddar that in absence of vouchers payment could not be made to the applicant, Since the Railway respondents received the payment from the Dy. Chief Mining Engineer for making payment to the applicant. So Railway authority is not entitled to withhold the payment relating to O.T. allowance as admissible to applicant. So in view of the circumstances, the claim of the applicant though said to be a belated one yet in the interest of justice I direct the respondents to appoint one responsible officer under his control to enquiry into whether any payment has been received by the Railway authority as per letter dated 18.10.82 (Annexure-A/7) for making payment to the applicant Sri Kundu. If payment is not made as per letter dated 18.10.82 to the applicant or his legal representatives (as per Annexure-A/7) till date, then the payment should be made within 3 (three) months from the date of communication of this order.

7. So in view of the aforesaid circumstances, I direct the respondent No.2 to take action as per direction given above. Accordingly the application is disposed of awarding no costs.



(D. Purkayastha)  
Member (A)