

**CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH**

O.A. No.1104 of 1996

Present: Hon'ble Mr. Justice G.L. Gupta, Vice-Chairman

Venugopal, S/o late K. Raji Venu working
as Rest House Watchman in Bhowanipur
Rest House at 44B, S.P. Mukherjee Road,
Calcutta of Chittaranjan Locomotive
Works

... Applicant

VS

1. Union of India service through the
General Manager, Chittaranjan Locomotive
Works, P.O. Chittaranjan, Dist. Burdwan

2. Controller of Stores, Chittaranjan
Locomotive Works, 4, No. Hindustan
Building, Calcutta-72

3. Deputy Controller of Stores-II,
Chittaranjan Locomotive Works,
Calcutta, 4, No. Hindustan Building,
Calcutta-72

4. Deputy General Manager, Chittaranjan
Locomotive Works, P.O. Chittaranjan,
Dist. Burdwan

5. Assistant Controller of Stores,
Chittaranjan Locomotive Works, Howrah
Stores, P.O. & Dist. Howrah

6. The C.M.M. Chittaranjan Locomotive
Works, 4 No. Hindustan Building,
Calcutta

... Respondents

For the Applicant: Mr. P. C. Das, counsel
For the Respondents: Mr. P. K. Arora, counsel

: : Date of order: 16.12.89

ORDER

Through this O.A. under Section 19 of the A. T. Act the
applicant claims overtime allowance.

2. It has been stated that the applicant was initially
appointed as Khalasi in 1974 in Chittaranjan Locomotive Works
(CLW). Subsequently he was transferred to CLW, Howrah office. On
16.5.89 a temporary transfer order in respect of the applicant
was issued and he was posted at new Rest House at 44B, S.P.

S.P. Mukherjee Road, Calcutta to look after the same. Since then the applicant had been working in the rest house. The case for the applicant is that he was required to work for all the 24 hours as it was his duty to maintain the articles of the rest house and he worked as cook-cum-bearer also. He has claimed overtime allowance for the period 16.5.89 to 8.1.96 with interest.

3. In the reply the respondents have come out with the case that the applicant was posted temporarily in the rest house without change of designation and that he was never advised to work beyond duty hours. It has been denied that the applicant had ever worked as cook cum bearer. It has been stated that Shri Ram Soren was posted in the rest house upto 10.10.94 and from 11.10.94 the applicant was detailed to look after the work of Watchman only. It has been stated that the applicant did not perform duties on Sundays and holidays.

4. We have heard the learned counsel for the parties and perused the documents placed on record. It is evident from the facts stated in the application and admitted during the course of arguments by the learned counsel for the applicant that till 10.10.94 Shri Ram Soren was the Watchman in the rest house. It has therefore, to be accepted that the applicant did not perform the duties of the Watchman upto 10.10.94. It may be that he was posted in the rest house, but there is nothing on record to believe that the applicant had worked beyond duty hours upto 10.10.94.

5. However, the position from 11.10.94 is different. Even the respondents admit that the applicant was asked to lookafter the work of Watchman from 11.10.94. In the rest house after the transfer of Shri Ram Soren the applicant was the only person to



perform duties. It may not be correct that the applicant did the work of Cook, but in any case he was the only person who was to perform the duties of Watchman in the rest house. There is therefore, scope of argument that the applicant had to work for the period more than duty hours.

6. The Watchman falls in the category of essentially intermittent employee. This fact has been considered by this Tribunal in its order dated 20.5.98 in OA 371/96 (Shri Nripen Das vs. Union of India & others). Railway Board's circular No. PC-IV/86/Imp/AL-9 dated 22.9.87 provides that overtime allowance is payable to the Railway servant for the actual time worked in excess of the hours of employment prescribed by any law or rule. Since all the facts have not appeared before us, it is difficult to decide as on which particular date/s the applicant had to perform the overtime duty. The fact can be ascertained by the respondents on the basis of the register of visitors maintained in the rest house. There cannot be any doubt in the entitlement of overtime allowance by the applicant provided he worked in excess of the hours of employment provided for a Watchman in the guest house.

7. Consequently the application is allowed. The respondents are directed to decide the matter of grant of overtime allowance to the applicant on the basis of the record of the rest house or any other record within a period of four months from the date of communication of this order. If the applicant is entitled to get such overtime allowance the same may be paid to him within two months thereafter. The applicant shall be at liberty to challenge the order passed by the respondents in this regard, if he is aggrieved by the said order.



(G. L. Gupta)
VICE-CHAIRMAN