

CENTRAL ADMINISTRATIVE TRIBUNAL

CALCUTTA BENCH

No. O.A. 1272/1996

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

BISWANATH MUKHERJEE

VS.

UNION OF INDIA & ORS.

For the applicant : Mr. G.C. Mukherjee, counsel
Mr. A. Chakraborty, counsel

For the respondents : Mr. M.S. Banerjee, counsel

Heard on : 1.7.99

Order on : 1.7.99

O R D E R

Heard 1d. counsel for both the parties.

2. Short question for decision before me is that, whether the applicant, Biswanath Mukherjee is entitled to get overtime allowance for the period from 1st August, 1991 to 16th January, 1992 to the extent of Rs.2,785/- or not. According to the applicant as Staff Car Driver he rendered service under the respondents and did overtime duty for the said period, but the respondents did not make payment of overtime allowances according to rules. It is stated by the applicant that he worked for 211 hrs. as overtime duty but the respondents wrongly assessed the period of overtime and showed only 59 and a half hours. It is further stated by the applicant that the respondents paid him only Rs.500/- and the rest amount has not been released by them till date. It is also stated by the applicant that he made representation to the authorities stating his claim therein as directed by the authorities but the respondents did not grant him such benefit of overtime allowances till date. Hence he approached this Tribunal for getting appropriate relief.

3. Respondents filed written statement denying the claim of the applicant. It is admitted by the respondents that applicant did overtime for 59 and a half hours. Book (Annexure R-5) for the period from

16th January, 1992. It is stated by the respondents that they offered overtime allowances of Rs.500/- to the applicant but the applicant refused to accept the same. It is further stated by the respondents that there was an instruction of the Under Secretary, Government of India dated 20th June, 1991 bearing no. 21011/32/89-E, II(B), Govt. of India, Ministry of Finance, Department of Expenditure by which overtime allowance was restricted to economise the expenditure. Accordingly extra fund for overtime allowances was not granted vide telegram dated 13th August, 1991. The abovementioned letter and telegram collectively is annexed as R-6 to the reply. The respondents stated in the reply that the overtime allowances of the applicant was restricted to Rs.500/- in view of the said telegram dated 13.8.91 and the Office Memo dated 20.6.91. It is also stated that as the applicant refused to accept the amount of Rs.500/- as admissible to him under the rules, payment of his overtime dues could not be made. Thereby, the application is devoid of any merit and is liable to be dismissed.

4. Ld. counsel Mr. G.C. Mukherjee appearing on behalf of the applicant submits that the applicant ~~is only to get overtime~~ ~~cannot be responsible~~ ~~for delayed payment~~ of overtime allowances since he acted upon the order of superior officers in the matter of performance of duties beyond the scheduled time and thereby he is entitled to get overtime allowance as per the admitted records of the respondents and there should not be any curtailment of overtime allowances.

5. Ld. counsel Mr. M.S. Banerjee appearing on behalf of the respondents submits that due to non-availability of extra fund for overtime allowances, the respondents could not make payment as per the claim of the applicant, but as per Government instruction the applicant was offered Rs.500/- but he refused to accept the same. So, the respondents are in no way responsible for such delay.

6. In view of the divergent arguments as advanced by the 1d. counsel for both the parties, I am of the view that the applicant rendered overtime duties as per the direction of his superior officers and he cannot be held responsible for denying the overtime payment for the period in question. It appears from the records that the said instruction of Government of India was issued on 20th June, 1991 and the telegram on 13th August, 1991, but the applicant did overtime duty from 1st August 1991 to 16th January, 1992. So, it is evident that the applicant was asked to perform overtime duty even after receipt of the said instruction from the Finance Department and thereby the applicant cannot be held responsible for the same. I find no justification to deny overtime allowances to the applicant to the extent of Rs.850/- as submitted by Mr. Mukherjee which is also admitted by the respondents. Regarding delay in preferring application before the Tribunal, I am of the view that the claim of the applicant cannot be denied due to technicality of limitations as submitted by 1d. counsel for the respondents.

7. In view of the aforesaid circumstances, the contention of delay in filing this application, if any, is hereby condoned in view of the fact that the respondents did not take any decision despite of several representations of the applicant. Respondents are directed to make payment of Rs.850/-^{to the applicant} as overtime allowances with interest at the rate of 10% from the date of filing this application till the payment is made, within 3 months from the date of communication of this order. Accordingly the O.A. is disposed of awarding no costs.

10/11/99
(D. PURKAYASTHA)
MEMBER (J)

S.M.