

**CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH, JODHPUR.**

Original Application No. 164/2006

Date of decision: 26.03.2009

Hon'ble Mr. Justice M.Ramachandran Vice Chairman.

Hon'ble Dr. Ramesh Chandra Panda, Administrative Member.

Chouru Lal aged about 58 years, s/o late Shri Dhokal Ram by caste Verma resident of Old Post and Telegraph Colony, F Block Quarter No. F/2, Bikaner, presently working as Group D employee under Head Post Office, Bikaner.

: applicant.

Rep. By Mr. Manoj Bhandari : Counsel for the applicant.

Versus

1. The Union of India through the Secretary, Ministry of Communication, Department of Posts, Dak Bhawan, New Delhi.
2. The Chief Post Master General, Rajasthan Postal Circle, Jaipur.
3. The Post Master General Western Postal Region, Jodhpur.
4. The superintendent of Post Offices, Bikaner.
5. The Post Master, Head Post Office, Bikaner.
6. Shri P.R. Sharma, Superintendent Post Offices, Bikaner.

: Respondents.

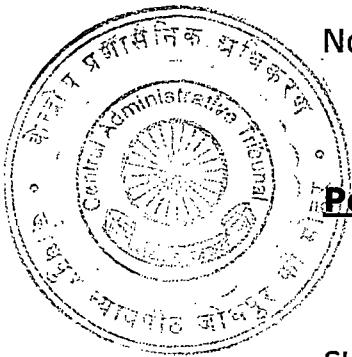
Rep. By Mr. M. Godara proxy
counsel for Mr. Vinit Mathur, : Counsel for respondents 1 to 5

None present for respondent No. 6

ORDER

Per Mr. Justice M. Ramachandran V.C. (J)

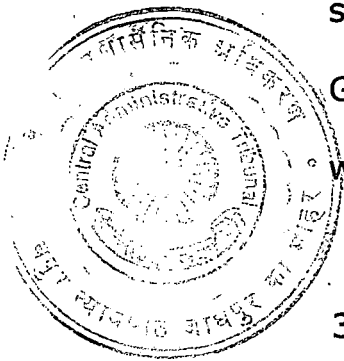
Mr. Manoj Bhandari appearing on behalf of the applicant submitted that the first relief sought in the application is not being prosecuted. Submissions recorded. However, he points out that



equally important is the relief in respect of the claims about over time allowance ('OTA' for short) payable to the applicant with effect from 01.05.90 till 04.07.2006. Interest admissible thereon also could not have been overlooked. The applicant has claimed payment of OTA for the duty performed by him on weekly off days, i.e. Saturdays and Sundays, which he claims had been continuously not made available to him and therefore in effect denied. According to the learned counsel the applicant had been religiously working on every Saturdays and Sundays, gazetted Postal Holidays and National holidays without interruption. For such work extracted compensation required to be paid with interest.

2. The applicant was working as Chowkidar and is presently retired from service. He was initially appointed in the year 1971 as Group D employee had been attached to the Divisional Post Office. Duty roster required that he works for twelve hours per day. From 1989 onwards no weekly off had been granted to him. He submitted that as per orders-dated 18.06.83 issued by the Director General, Post and Telegraph work carried out in excess of normal working hours required to be remunerated.

3. However, the claim as above is resisted by the respondents for more than one reason. According to the learned counsel there was no authenticated record to indicate that the applicant had worked on holidays or on weekly off days and the claim as such per



se could not have been acceptable. Nobody had supervised or recorded that the work as about had been done. His second submission is that the claim for payment of OTA was stale. As a practice OTA bills were promptly attended to and the above fact could be lead to an assumption that there were no claims pending for payment of OTA. The third submission that could be gathered from the reply to the O.A is that no authorization for carrying out the over time Work had been issued by the competent authority. It would not have been possible for an employee to come up with a case that he had worked over time or was working on holidays suo motu. Therefore it would not have been possible to be remunerated as per the existing service rules. It is also contended that in matter of claiming compensatory days, it was incumbent on the employee to claim the benefits then and there. OTA claims were to be settled on month to month basis and therefore the present claim spanning over a decade cannot be entertained.

4. Although Mr. Manoj Bhandari had attempted to substantiate the plea with reference to the information drawn through RTI Act, we do not think that it is possible to rely on such record for award of government money. It could not have been possible for us to come to a conclusion that there were work done by an employee requiring to be compensated. In fact this is gist of the issue. In matters of payment for OTA and for the work done on holidays an employee is expected to exert himself only under proper authority. In other words, it would not be possible for a government



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employee to undertake the work on his own and then assert that he be compensated. As far as overtime hours of employment is concerned there is statutory upper limit. It may not be possible for us to assume that statutory rules on the subject are to be totally ignored when claim in bulk comes as available now.

5. It is also contended by respondents that a Chowkidar was expected to work as per the roster for twelve hours per day and his work is essentially intermittent and not intensive in its nature. Therefore claims are misconceived.

6. We are inclined to agree with the respondents. The contention that no claim was preferred by applicant in time is a hurdle in the instant case. It is also a fact that there was no authority for carrying out such over time work as claimed to have been carried out. We do not feel that the applicant has to be compensated/remunerated as the preconditions are not satisfied.



In the circumstances, we are not inclined to issue any direction to the respondents to pay OTA to the applicant. The O.A is therefore rejected. No costs.


[Dr. Ramesh Chandra Panda]
Administrative Member.


[Justice M. Ramachandran]
Vice Chairman (J)

Jsv.

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30/03/09

Part II and III destroyed
in my presence on 8/2/18
under the supervision of
section officer () as per
order dated 07/07/2015

Section officer (Record)

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