

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A.No.441/2001

Tuesday this the 31st day of July, 2001

CORAM

HON'BLE MR. A.V. HARIDASAN, VICE CHAIRMAN
HON'BLE MR. T.N.T. NAYAR, ADMINISTRATIVE MEMBER

K.G.Asokan,
Superintendent of Customs (Retd)
Cochin Customs House,
Residing at Santhi, North Janatha Road,
Palarivattom,
Kochi.25.Applicant

(By Advocate Mr. V.Krishna Menon)

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1. The Commissioner of Central Excise & Customs, Central Revenue Building, IS Press Road, Kochi.18.
2. The Deputy Commissioner of Central Excise & Customs, Trivandrum Division, Trivandrum.1.
3. The Assistant Commissioner of Customs, Airport, Trivandrum.
4. Union of India, represented by the Secretary, Central Board of Excise & Customs, North Block, Central Secretariat, New Delhi-110 001.Respondents

(By Advocate Mr. TA Unnikrishnan, ACGSC)

The application having been heard on 31.7.2001, the Tribunal on the same day delivered the following:

O R D E R

HON'BLE MR. A.V. HARIDASAN, VICE CHAIRMAN

Applicant who retired from service on 31.7.95 had preferred his Overtime Allowance (OTA for short) Claims for the overtime work he had performed from May,1992 to May, 1995 at the International Airport, Trivandrum. The total amount as per the claim worked out to Rs.40,847/- Though

the claim was pending for a long period he received an amount of Rs.33,537/- along with a letter dated 8.3.2000 stating that this covered the Overtime Allowance for the period 1992 to 1994. Stating that his claim for Rs. 7310/being Overtime Allowance for the period from October, 1994 to May, 1995 has not been granted the applicant made a representation on 27.3.2000 to the third respondent. The applicant received a letter dated 11.4.2000 (A8) from the second respondent informing him that no O.T.A.Claim pertaining to the applicant for the period 10/94 to 5/95 was available in the office and requesting him to make available copies of the claims if any. In reply to the A8 letter the applicant again wrote to the third respondent a letter dated 16.5.2000 (A9) giving the break up of the amounts claim for the period from 10/95 to 5/95 but stating that copies of the claims are not available with him. However, the claim of the applicant remains not settled. Therefore, the applicant has filed this application for a declaration that he is entitled to receive Rs.7310/- as O.T.A. for the period from October, 1994 to May, 1995 with interest at 12 percent per annum and interest at the same rates on the belated payment of overtime allowance amounting to Rs.33,537/- for the period from June, 1992 to September, 1994 and to pay the said amount calculated from 1.10.1994 to 7.3.2000.

2. On behalf of the respondents a statement has been filed by Shri TA Unnikrishnan, learned ACGSC appearing for them. It is stated in the statement that as no record is



available in the office of the respondents pertaining to the claim of OTA of the applicant from October, 1994 to May, 1995 the respondents could not make the payment. However, it is stated that if any such claim is made in the proper form to the competent authority that would be examined in accordance with law.

3. The applicant has filed a rejoinder reiterating the contention that OTA Claims were made every month regularly.

4. We have heard the learned counsel on either side and have perused the material available on record. Regarding the claim of the applicant that a sum of Rs.7310/- is due to him towards OTA from October, 1994 to May, 1995 there is no categorical denial on the part of the respondents. The respondents contend that OTA claim for the period has not been received in the office. However, in the letter A8 dated 11.4.2000 in reply to the applicant's representation dated 27.3.2000 (A7) the third respondent had not stated that the applicant had not preferred his claim, but what was stated was that no OT claim pertaining to the applicant for the period 10/94 to 5/95 was available with the office. The applicant was only requested to send copies of the claim if any for the period. At this distance of time after retirement, the applicant cannot be expected to retain copies of the O.T.Claim. However, as there is nothing on record which would enable us to quantify the amount of OTA if any due to the applicant, we can only permit the

applicant to put forth his claim on verification of the relevant files in the office to the third respondent and directing the third respondent that if such claim is received the same shall be scrutinised with available records and a reply given to the applicant.

5. Regarding the claim of the applicant for a declaration that the applicant is entitled to interest on the belated payment of Overtime Allowance for the period from June, 1992 to September, 1994 nothing has been stated in the statement filed on behalf of the respondents as to why the payments were not made in due time. A matter identical to this came up for consideration before a Bench of this Tribunal in OA 115/2000 wherein the Tribunal directed the respondents to pay interest to the applicant therein at 12 percent per annum on the amount of OTA due to the applicant therein with interest from the date on which the same became due till the date of payment. We do not find any reason to take a different view in this matter as the fact situation is not different but identical.

6. In the light of the above discussion, the application is disposed of with the following declaration/direction:

Declaring that the applicant is entitled to interest on Rs.33,537/- representing Overtime Allowance for the period from June, 1992 to September, 1994 we direct the



respondents to pay the applicant interest on this amount of Rs.33,537/- at the rate of 12 percent per annum from 1.10.1994 to 7.3.2000. Regarding the claim of the applicant for a sum of Rs.7310/- as Overtime Allowance for the period from October, 1994 to May, 1995, the applicant may verify the records available in the office of the third respondent and prefer a claim and if such claim is preferred, the respondents shall consider the same and pass appropriate orders without delay. It is also directed that if the applicant approaches the third respondent, he shall permit him to inspect the relevant records. The payment of interest on Rs.33,537/- as aforesaid shall be made as expeditiously as possible at any rate within a period of three months from the date of receipt of a copy of this order. There is no order as to costs.

Dated the 31st day of July, 2001



T.N.T. NAYAR
ADMINISTRATIVE MEMBER



A.V. HARIDASAN
VICE CHAIRMAN

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List of annexures referred to:

Annexure.A7:True copy of the letter dated 27.3.2000 sent by the applicant.

Annexure.A8:True copy of the letter dated 11.4.2000 sent by the Assistant Commissioner of Central Excise, Trivandrum to the applicant.

Annexure.A9:True copy of the representation dated 16.5.2000 submitted by the applicant to the Asst.Commissioner,Central Excise & Customs, Trivandrum D.

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