

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

Original Application No. 476 OF 2006

Friday, this the 30th day of March, 2007

C O R A M :

HON'BLE DR. K B S RAJAN, JUDICIAL MEMBER

P. Nagamanickam,
S/o. V.T. Ponnusamy,
Retired Senior Section Engineer/
Carriage Wagon/Erode, Residing at
No. 109/41, Bharathi Nagar,
Near Sree Krishna School,
Chadayam Palayam Road, Erode

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Applicant.

(By Advocate Mr. T C Govindaswamy)

v e r s u s

1. Union of India, represented by
The General Manager, Southern Railway,
Headquarters Office, Park Town P.O,
Chennai - 3
2. The Divisional Railway Manager,
Southern Railway, Palakkad Division,
Palakkad
3. The Senior Divisional Mechanical Engineer,
Southern Railway, Palakkad Division,
Palakkad.
4. The Senior Divisional Personnel Officer,
Southern Railway, Palakkad Division,
Palakkad.

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Respondents.

(By Advocate Mr. Thomas Mathew Nellimoottil)

The original Application having been heard on 22.03.07, this
Tribunal on 30.03.07 delivered the following:




O R D E R
HON'BLE DR. K B S RAJAN, JUDICIAL MEMBER

The cardinal principle in service jurisprudence is that when an individual has worked in a particular post under the orders of competent authorities, he becomes entitled to wages for the work done. See Kameshwar Prasad v. State of Bihar, (1995) 6 SCC 44, Jaswant Singh v. Punjab Poultry Field Staff Assn., (2002) 1 SCC 261, Selvaraj v. Lt. Governor of Island, Port Blair, (1998) 4 SCC 291 Jeet Singh v. M.C.D., 1986 Supp SCC 560. This holds good in respect of overtime as well. The case in hand relates to non grant of overtime allowance.

Minimum facts required for adjudication of this case are as under:-

(a) During the period applicant's service as a Junior Engineer (C&W) and later as Section Engineer and Senior Section Engineer, the applicant was in charge of break down special at Erode for a continuous period about 20 years. Throughout the period of the applicant's service as person in charge of break down special, he was also being paid break down overtime allowance as and when he discharged his duties in the said break down special. However, the applicant was informed that he was not entitled for payment of overtime allowance as provided under the rules.

(b) The applicant came to know that in other Divisions overtime allowance is being paid to persons of applicant's status for discharging duties on break down specials. Having come to know this position, the applicant submitted relevant overtime bills for the period between 17.06.2001 and 11.08.2001 and also for the subsequent periods were submitted from time to time. After further representations, as against the claim of Rs. 35,405/- for



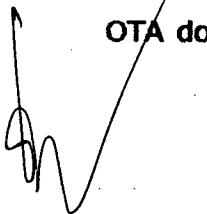
the period between 17.6.2001 and 11.8.2001, the applicant was paid an amount of Rs. 23,189/-. Aggrieved by the denial of balance overtime allowance the applicant had also submitted another representation dated 25.04.2005 addressed to the second respondent. The applicant was paid the balance of about Rs. 12,216/- during the month of May, 2006.

(c) The applicant was also pursuing his grievance regarding non-payment of the break-down overtime allowance for the period between 6.6.1997 and 22.04.2003 simultaneously through representations and also through representative trade unions. Thereafter, Annexure A/1 order was issued stating that the preservation period of such records are over and that the claim for payment of overtime allowance for the period between 6.6.1997 to 22.04.2003 cannot be considered.

(d) The applicant submits that Annexure A1 is totally arbitrary and without application of mind, having been passed in a mechanical manner. All the records relating to discharge of duties of the applicant are maintained in the Office of the Carriage and Wagon at Erode and they are still available. He further submits that the contention that the preservation period of maintenance of records is over is not correct.

2. The only reason given by the respondents is that the records are not available. According to the applicant's counsel the records are very much available and the claim pertains the period from 1997 - 2003.

3. Arguments were heard and documents perused. The retention period of OTA documents is 3 years or one year after the completion of audit. Annexure



R-1 reflects that the applicant's OTA for the period 2001 was processed and paid after his retirement i.e. 2003. And the present claim preferred by the applicant relating to the period of 1997 onwards was made in 2003, vide Annexure A-3. As such, in all probability, the records must be available. Perhaps, the respondents would have, on the basis of general period of retention, would have stated that the records are not available. For, if the records had been destroyed, the authorities would have maintained due details of weeding out/destruction and reference would have been made in their reply. This is not done here.

4. Keeping in view the fact that the labour of the employees should be duly rewarded, attempt should be made to locate the records, if not already destroyed, and process the claim of the applicant, who is a senior citizen and after due verification, any amount due to the applicant be paid to him. This drill may be performed within a period of six months from the date of communication of this order.

5. The Original Application is disposed of as above. No costs.

(Dated, the 30th March, 2007)



Dr. K B S RAJAN
JUDICIAL MEMBER

cvr.