

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

O.A. NO. 128 OF 2010

Wednesday, this the ^{9th} day of November, 2011

CORAM:

HON'BLE Dr. K.B.S. RAJAN, JUDICIAL MEMBER
HON'BLE Mrs. K. NOORJEHAN, ADMINISTRATIVE MEMBER

M.N. Babu, S/o. (late) Narayana Shetty
Group 'D' Chowkidar
Head Post Office, Ernakulam
Residing permanently at "Maliyamveedu"
Vaduthala, Kochi - 682 023.

- Applicant

(By Advocate Mr. M.R. Hariraj)

Versus

1. Union of India represented by its
Secretary to the Government
Ministry of Communication
Department of Posts, New Delhi.

2. The Chief Post Master General
Kerala Circle, Trivandrum.

3. The Post Master General,
Central Region, Ernakulam.

4. Senior Superintendent
Central Region, Ernakulam.

5. Senior Postmaster
Head Post Office, Ernakulam.

- Respondents

(By Advocate Mrs. Deepthi Mary Varghese, ACGSC)

The application having been heard on 18.10.2011, the Tribunal
on 9/11/2011 delivered the following:

ORDER

HON'BLE Mrs. K. NOORJEHAN, ADMINISTRATIVE MEMBER

The applicant has filed this Original Application seeking the
following main relief :

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(i) To quash Annexure A-4 and Annexure A-6.

(ii) To direct the respondents to fix the duty time of the applicant as 8 hours and to pay him for the extra hours of work put in by him from 20.04.2005 and to pay him the monetary benefits therefrom with interest at 18% per annum.

2. The applicant, a casual labourer was regularized as Group 'D' in 1991 vide Annexure A-1. He was posted as Group 'D' Chowkidar, at Ernakulam Head Post Office on 20.04.2005. The applicant produced Annexure A-2, whereby the duty hours of the Chowkidar and Gatemen are fixed in accordance with the instructions contained in Director General (Posts) letter No. 24-11/82-TE.II 82/II dated 18.06.1983. As per Annexure A-2, guidelines, night Chowkidar is brought on 12 hours of duty when he is in charge of office building which is locked in the night. For offices, which are open for 24 hours, duty can be assigned only for 8 hours. According to the applicant, Ernakulam Head Post Office is open for 24 hours because there is round the clock booking of speed post articles. There are MMS schedules to this building in the night. Therefore, constant vigil on the part of the Chowkidar is necessary. Without considering this, Chowkidars under the 5th respondent are given 12 hours of duty. He submitted his Annexure A-3 representation to 5th respondent requesting him to restrict his duty time to 8 hours. This was turned down by the 4th respondent vide Annexure A-4. He is aggrieved by the Annexure A-4 response from the 4th respondent. He submitted his Annexure A-5 representation to the 3rd respondent. His request was rejected vide Annexure A-6. Since, the applicant wanted to show that in MMS, Chowkidars are given only 8 hours of duty he got information under the RTI Act vide Annexure A-7 and A-8. In Annexure A-7, he had raised five

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questions. In the reply given vide Annexure A-8, it is intimated that due to administrative reasons, no gate duty is arranged from 9:00 to 17:00 hrs. in MMS, Ernakulam. He says that he should be paid overtime allowance over and above the 8 hours of duty and that the action of the respondents in denying it is illegal, unjust, arbitrary and discriminatory and is in violation of Article 16 of the Constitution of India.

3. The respondents controverted the contentions of the applicant and filed reply statement. They submit that the duty performed by the applicant as night Chowkidar is not comparable to the duty performed by gateman of mail-motor service and hence he cannot claim that his duty hours should be restricted to 8 hours. In mail-motor service Gatemen has to control the movements of the mail-motor vehicles, stores and staff. The Gatemen has to note the time of departure and arrival of each MMS van and also check the general condition of the mail vans to ensure that there is no damage to it. The duty of the Chowkidar of Ernakulam Head Post Office does not involve any physical strain. The applicant has to keep only the general watch over the closed building with its stores and other documents. According to them, the clarification in Annexure A-2 relied on by the applicant that "in offices which are open for 24 hours and where there is need to check public/staff or stores" shall be read in conjunction and not in isolation. The pre-requisite of the clarification is that the office should be open for 24 hours. Therefore, the respondents submitted that merely because of the fact that the Head Post Office building is open for 24 hours, the applicant cannot be given 8 hours duty. His duty involves only a general watch over the building and stores and



not checking any personnel or store and therefore, the benefits of clarification in Annexure A-2 cannot be extended to him.

4. The applicant filed rejoinder reiterating his earlier contentions and producing Annexure A-9. The Annexure A-9 enjoins upon the heads of offices to stop engagement of casual labourers on full time or part time basis for work relating to watch and ward, gardening, sweeping, etc.

5. During the hearing, the Tribunal called for certain information relating to the business hours of the offices located in the Head Post Office building in which the applicant is engaged as Chowkidar and duty hours of the applicant. After the hearing was over, an additional reply statement was filed producing the documents as Annexure R-1 and R-2.

6. Heard the counsel for the parties and perused the documents.

7. Annexure A-2 relied on by the applicant governs the terms and conditions for fixing duty hours in respect of Chowkidar. The relevant portion is extracted below:-

"(i) Chowkidars employed to keep a general watch over buildings at night which are locked and secured may be given 12 hours only as no strain would be involved.

(ii) In offices, which are open all the 24 hours and where there is a need to check public staff or stores moving in/out duties of Chowkidars when employed will be 8 hours as mental and physical strain will be involved.

(iii) In Store Depots/dumps, where the Chowkidars not only look after the custody of stores but also help in checking stores taken in/out during the working hours may be allotted 8 hours of duty."



Annexure R-1 and R-2 produced by the respondents show the working hours of the office of the Senior Superintendent of Post Office, Ernakulam Division and that of the Superintendent of RMS, Ernakulam Division, Speed Post Centre and Head Post Office. The business hours of the Head Post Office including the night post office get over by 20:00 hours, when the applicant's duty commences. According to the respondents, different floors of the building, wherein Head Post Office is located are locked by 20:00 hours. Therefore, as a Chowkidar the applicant has to exercise a general watch only over the closed floors of Head Post Office. As far as the speed post centre is concerned, it is open for 24 hours. However, there is no access to the public as the booking of the speed post articles is done only at the Head Post Office counter till 19:30 hours. Therefore, there is no entry for the public to the speed post centre, which deals with sorting, bagging and despatch of speed post mail. It is quite possible for them to keep the door shut from inside ^{and} open it when necessary. There are many Group D officials engaged in speed post centre. Hence, the applicant does not have to deal with any work connected to speed post centre. According to the submission of the respondents, there is also an armed guard. Respondents have stated that the applicant has failed to produce any evidence to show that he is maintaining any register or log book to show the movement of stores or inventories.

8. Generally, the term Chowkidar connotes only night duty to guard the building. When there is watch and ward duty in the day time, the post is designated as Gateman. It is stated that due to the ban on creation of post,

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the post of Gateman is being phased out and nobody is brought on duty even in mail-motor service office, where there is constant movement of vehicles. It is seen from the information furnished to the applicant in response to a question raised under RTI Act, vide Annexure A-8, that no Gateman is being arranged even in MMS. It is practically impossible to bring two Chowkidars on duty during the night as the duty hours of one Chowkidar will commence after midnight. As per the general instructions of DOPT, no official can be brought on duty after 10:00 p.m. This accounts for Director General (Posts) instructions issued vide Annexure A-2 fixing 12 hours duty for the Chowkidar engaged in the night. We find that the respondents have acted in accordance with the guidelines given by the DG (Posts) supra in bringing the applicant on duty from 20:00 hours to 8 hours to keep a general watch of the building and stores of Head Post Office, located in different floors which are locked in the night.

9. In view of the forgoing, the O.A lacks merit and is dismissed. No costs.

(Dated, the 9th November, 2011.)


K. NOORJEHAN
ADMINISTRATIVE MEMBER


Dr. K.B.S. RAJAN
JUDICIAL MEMBER

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