

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

O.A.NO. 286 OF 2007

Monday, this the 16th day of June, 2008.

CORAM:

HON'BLE Mr. GEORGE PARACKEN, JUDICIAL MEMBER

Sunny Mathew
Working as Senior Commercial Clerk
Southern Railway, Kalamasseri
Residing at : 31/1418-A
LPS Road, Ponnuruni, Vyttila
Kochi - 19 : Applicant

(By Advocate Mr. M.P. Varkey)

v.

1. Union of India represented by General Manager
Southern Railway
Chennai - 600 003
2. Senior Divisional Commercial Manager.
Southern Railway
Trivandrum - 695 014
3. Senior Divisional Personnel Officer
Southern Railway
Trivandrum - 695 014 : Respondents

(By Advocate Ms. P.K. Nandini)

The application having been heard on 16.06.2008, the Tribunal on the same day delivered the following :

ORDER

HON'BLE Mr. GEORGE PARACKEN, JUDICIAL MEMBER

The grievance of the applicant in this O.A is against the action of the respondents in not granting him over time allowance for the period from 11.06.2002 to 07.10.2006 while he was working as Clerk-in Charge (CNC for short) at Kanjiramittam, a road side Station in Ernakulam-Kottayam Section. According to him he was performing overtime work under different duty rosters from 11.06.2002 to 27.09.2003, from 28.09.2003 to

12.11.2005 and from 13.11.2005 to 07.10.2006 and had submitted Extra Hour Slips (OTA Bills) accordingly. However, respondents have not paid him the over time allowance so far.

2. Applicant had earlier approached this Tribunal in OA 623/05 seeking a declaration that he needs to work only 60 hours per week at the rate of 10 hours for 6 days and one day rest or 12 hours for 5 days and two days rest, as CNC, Kanjiramittam, under "Essentially Intermittent" classification (without quarters) with effect from 11.06.2002. This Tribunal vide order dated 24.08.2005 disposed of the aforesaid OA with a direction to the 1st respondent or any competent authority to consider and dispose of his representation made by him in this regard (Annexure A-10) and pass appropriate orders within a time frame of three months. Pursuant to the aforesaid order of this Tribunal, the respondents have issued the Annexure A-11 letter dated 24.11.2005 under the signature of Senior Divisional Personnel Officer stating that the post of CNC at Kanjiramittam is classified as "Essentially Intermittent" and the Applicant was required to work upto the rostered hours with the permissible P&C hours fixed as per provisions of HOER and the averment regarding non availability of quarters within 0.5 km for allotment at Kanjiramittam cannot be accepted as a relevant factor. They have also stated that the ear-marked quarter available at Kanjiramittam was under repairs and it will be made available for occupation in a short time. The applicant was therefore, advised to submit fresh over time claims from 11.06.2002 onwards in terms of provisions of HOER based on the duty rosters dated 10.07.1997 and 05.02.2004. It was further stated that a fresh duty roster under "El classification" for 60 hours a week has been issued on 09.11.2005 duly withdrawing the earlier duty roster dated 05.02.2004 and the claim for

payment OTA for the period from 11.06.2002 onwards will be processed on receipt of the duly certified OTA claims.

3. Annexure A-12 letter dated 21.08.2006 issued by the Divisional Personnel Officer is also pursuant to the directions of this Tribunal in O.A. 623/2005 (supra). The Divisional Personnel Officer has stated that the Applicant has submitted his OTA claims based on roster dated 24.01.1981 though the same has already been replaced by the roster dated 10.07.1997. He has further submitted that when the Applicant was working at Kanjiramittam from 08.06.2002 he should have been aware about the duty roster dated 10.07.1997 and his claim based on the obsolete duty roster dated 24.01.1981 cannot be accepted.

4. According to the applicant, he has re-submitted the OTA claims by Annexure A-10 letter dated 22.11.2005

5. In Para 17 of the reply statement filed by the respondents it has been stated that in terms of provisions contained in the HOER, "Essentially Intermittent" workers are classified into two categories depending upon the nature/place of work and occupation of Railway quarters and 'C' class Gatekeepers, Caretakers of Rest Houses / Reservoirs, Bungalow Peons and Salon Attendants irrespective of the fact whether they reside in Railway Quarters or not and staff posted to way side station provided with railway quarters within 0.5km are permitted to work for 48 + 24 additional hours in a week. Rest of the workers, i.e "Essentially Intermittent" workers posted to junction stations and staff not provided with residential accommodation are permitted to work for 48 + 12 additional hours in a week.

2

6. In para 13 of the additional reply statement the respondents have submitted that the applicant being an employee classified as " Essentially Intermittent " at Kanjiramittam Station is liable to work for 60 hours a week and eligible to get over time allowance only to the excess period worked over and above 60 hours in a week.

7. The aforesaid paras are reproduced below:-

Para 17 : " The averments in Grounds 5 (a) regarding entitlement of overtime allowance for th work done beyond 48 hours a week on the basis of Annexure a-14 are totally misleading and hence, the same are not accepted. It is pointed out that in the earlier OA.623/2005 filed by the applicant for payment of Over Time Allowance for the work performed beyond the statutory limit at the very same post, he had prayed for work done beyond 60 hours per week. In terms of provisions contained in the HOER, "Essentially Intermittent" workers are classified into two categories depending upon the nature/place of work and on account of occupation of Railway quarters. According to the provisions contained in HOER, 'C' class Gatekeepers, Caretakers of Rest Houses / Reservoirs, Bungalow Peons and Salon Attendants irrespective of the fact whether they reside in Railway Quarters or not and staff posted to way side station provided with railway quarters within 0.5km are permitted to work for 48 + 24 additional hours in a week. Rest of the workers, i.e "Essentially Intermittent" workers posted to junction stations and staff not provided with residential accommodation are permitted to work for 48 + 12 additional hours in a week. Thus it is respectfully submitted that the applicant's averment that he is entitled for overtime allowance for work done beyond 48 hours per week is not maintainable. The applicant is not thorough in his understanding of the rules as regards the eligibility of overtime allowance ion respect of the workers as "Essentially Intermittent" under the HOER."

Para 13 : " The averments in paragraph 17 of the Rejoinder are not covered by any rules. The statement regarding payment of overtime allowance beyond 48 hours in a week is without knowing the rule provisions of Hours on Employment Regulations (HOER). The factual position based on HOER rules have already been detailed in the Reply Statement at paragraph 17 and it is humbly submitted that the applicant being an employee classified as " Essentially Intermittent " at Kanjiramittam Station is liable to work for 60 hours a week and eligible to get over time allowance only to the excess period worked over and above 60 hours in a week."



8. I have heard, Mr.M.P.Varkey, learned counsel for applicant and Ms.P.K.Nandini, learned counsel for respondents. In view of the submissions made by the respondents in Para 17 of the reply statement and Para 13 of the additional reply statement as extracted above, the applicant may submit a fresh claim for OTA for the period from 11.06.2002 to 07.10.2006 for the work he had performed beyond 60 hours a week. Counsel for applicant submitted that the revised claim will be submitted by the Applicant within a period of four weeks from today. The respondents shall consider the same in accordance with the submissions made in the aforesaid paragraphs of their reply and make the payment to the applicant within another 30 days.

9. With the above direction, OA is disposed of. No order as to costs.

Dated, the 16th June, 2008.


GEORGE PARACKEN
JUDICIAL MEMBER

vs