

Central Administrative Tribunal Lucknow Bench Lucknow

Original Application No. 426 of 2011

(Reserved On 03.1.2014)

Order Pronounced on 17-01-2014

HON'BLE SHRI NAVNEET KUMAR MEMBER (J)

R. K. Biswas, aged about 53 years, son of N. C. Biswas, resident of B-108 /2, Manak Nagar, Lucknow.

Applicant

By Advocate Sri J. P. Mathur.

VERSUS

1. Union of India, Ministry of Railways/Railway Board, Rail Bhawan, New Delhi through its Secretary.

2. Director General, Research Design & Standards Organization, Ministry of Railways, Manak Nagar, Lucknow.

3. Executive Director, T.M. Directorate, Research Design & Standards Organization, Ministry of Railways, Manak Nagar Lucknow.

Respondents

By Advocate Sri S. Verma.

ORDER

By Hon'ble Sri Navneet Kumar, Member (J)

The present Original Application is preferred by the applicant under Section 19 of the AT Act, 1985 with the following reliefs:-

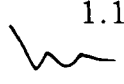
- (i) Issue order or direction thereby direct the opposite parties to implement the Hours of Employment Regulations in respect of the Employees working under the T.M. Directorate in accordance with admissible allowances in respect of the employees working in the Intensive Category w.e.f. the date the R. D. S.O. has been declared Zonal Railways and to pay consequential benefit thereof including arrears.
- (ii) Issue any other order or direction with the Hon'ble Tribunal deem fit and proper on the facts and circumstances of the case.

2. The brief facts of the case are that the applicant at present working as SSRE/Instrument under the T.M. Directorate, RDSO, Lucknow. The learned counsel for the applicant submits that the applicant as well as the other similarly placed persons are required to work for 8 hours in day a and apart from this, they



also work as an when it is directed to work on tracks and that too at remote places. Some times, they are required to work continuously without any break as the nature of work is strenuous. Not only, this, the learned counsel for the applicant has also pointed out that the Hon'ble High Court after discussing the provisions of Indian Railway Act hold RDSO as an attached office with the Railways and not an autonomous body. The SLP against the said order is also dismissed by the Hon'ble Apex Court. Subsequently, the RDSO is notified as Zonal Railway with Head Quarters at Lucknow w.e.f. 1.1.2003 and thereafter the Central Government settled the controversy by declaring the RDSO as Zonal Railway. The learned counsel for the applicant pointed out that soon after the said notification, the employees Association has requesting the authorities to implement the Labour Laws including the Hour of Employment Regulations and in spite of pursuation since 2002, nothing was done by the respondents and only assurances were given for implementation thereof at an early date. The learned counsel for the applicant has also pointed out that the similarly placed persons submitted a representation to the authorities in 2009, and subsequently, the Railway Board has also issued circular dated 17.2.2010 whereby providing the grant of over time allowances and said benefit is extended to the Railway employees. As such, learned counsel appearing on behalf of the applicant prayed that the respondents be directed to implement the Hours of Employment Regulations in respect of the Employees working under the T. M. Directorate in accordance with admissible allowances in respect of the employees.

4. The learned counsel appearing on behalf of the respondents filed their reply and through reply, it is pointed that w.e.f. 1.1.2003, the RDSO is given the status of Zonal Railway and

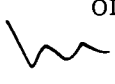


after the change of status of RDSO as an attached office to that of Zonal Railway it was exempted from the purview of Industrial Disputes Act, 1947. This notification has been sent by Ministry of Labour and Employment to the Ministry of Railways vide OM dated 9.2.2009. It is also pointed out by the learned counsel for the respondents that such exemptions are granted for a prescribed period which is extendable from time to time by the concerned Ministry looking into the status and activities of an organization. It is also pointed out by the respondents that the respondents organization is making certain regular correspondence with the Railway Board and given details for exempting the RDSO from the purview of Labour Laws and subsequently, the matter was sent by the Railway Board to the Ministry of Labour & Employment with a request to grant exemption to the RDSO from the provisions of the Industrial Disputes Act, 1947, payment of wages act, 1936, HOER etc. and the matter is now pending before the Ministry of Labour & Employment, Government of India. It is also pointed out by the respondents that thereafter, again reminder was given by the Railway Board but till date they have failed to receive any information.

5. The learned counsel appearing on behalf of the applicant has filed the rejoinder and through rejoinder mostly the averments made in the O.A. are reiterated.

6. Heard the learned counsel for the parties and perused the record.

7. The applicant is working in the respondents organization and has prayed for implementation of Hours of Employment Regulations in respect of the employees working in T.M. Directorate in accordance with admissible allowances in respect of the employees working in the Intensive Category w.e.f. the date



the RDSO has been declared Zonal Railway. The bare perusal of the reply filed by the respondents clearly shows that the respondents organization is continuously pursuing the matter with the Ministry of Labour and Employment and requesting for extension of exemption from Labour Laws, but they fail to receive any response till date. The Annexure C-6 and C-7 are letter written by the Director General to the Railway Board as well as by the Railway Board to the Ministry of Labour and Employment for seeking clarification for exemption of RDSO from the purview of Labour Laws such as Industrial Disputes Act, 1947, Payment of Wages Act, Hours of Employment Regulations (HOER)etc. the learned counsel for the applicant has only impleaded Railway Board and the RDSO as a respondents and as such, no direction can be issued to the Ministry of Labour and Employment, only a direction can be issued to the Railway Board and the RDSO.

8. Considering the submissions made by the learned counsel for the parties I deem it appropriate to issue a direction upon the respondent No. 2 and 3 i.e. Director General, RDSO as well as Executive Director, T. M. Directorate, Research Design & Standards Organization, Ministry of Railways, Manak Nagar, Lucknow to pursue the matter with the Railway Board for an early clarification as mentioned earlier through their letter dated 4.11.2011, 3.8.2011 and 2.12.2011 as contained in Annexure Nos. C-6 and C-7 to the counter reply.

9. With the above observation, the O.A stands disposed of. No order as to costs.


(Navneet Kumar)
Member (J)