

Central Administrative Tribunal, Lucknow Bench, Lucknow

Original Application No. 140/2011

This the 28th day of February, 2012

Hon'ble Sri Justice Alok Kumar Singh, Member (J)

Pradeep Kumar Mishra aged about 30years son of hari Narain ,Ex-Booking Clerk of Northern Railway, Station at BDXT, Basai Dhankot, Delhi Division, now transferred to Lucknow Division and posted at N. Railway Station, Faizabad and r/o Mohalla- Khajidipur City Faizabad.

Applicant

By Advocate: Sri A.C. Mishra

Versus

1. Union of India through General Manager, Northern Railway, Head Quarter Office, Baroda House, New Delhi.
2. Divisional Railway Manager, Northern Railway, Delhi Division, New Delhi.
3. Senior Divisional Finance Manager, Northern Railway, Delhi Division, New Delhi.
4. Senior Divisional Commercial Manager, Northern Railway, Division Office, Delhi Division, New Delhi.

Respondents

By Advocate: Sri Narendra Nath

ORDER (ORAL)

HON'BLE SHRI JUSTICE ALOK KUMAR SINGH, MEMBER (J)

Heard on preliminary objection against maintainability of

O.A.

2. This O.A. has been filed for the following reliefs:-
 - 8.1 That the Hon'ble Tribunal may kindly be pleased to quash the respondent No.s 2's letter dated 8.1.2010 sent to his counsel vide covering letter dated 11.1.2011 giving its copy to the applicant also vide speed post, contained in Annexure No.2 to this O.A.
 - 8.2 That the Hon'ble Tribunal may graciously be pleased to direct the respondent No.2 and 4 to sanction and pay the overtime bills total hours 652 hours for different period laying in the office of the respondent No.2 HQER Branch as applicant had worked overtime in the interest of Railway Income as provided under Rules contained in Annexure No.3 to this QA.

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8.3 That the Hon'ble Tribunal may further be pleased to direct the respondent No.2 to 4 to pay interest at the rate of 18% per annum with effect of 3 months after the last period of overtime ending on 14.10.2004 to the date its payment.

8.4 That the Hon'ble Tribunal may also kindly be pleased to order for payment of cost of the case as deem fit in the eyes of the Hon'ble Tribunal for dragging the applicant in the litigation without any fault of the applicant as the respondents Sectional Commercial Inspector failed to see the maintenance and proper protection of Relevant records and also failed to provide list of weeded records of the said station (BDXT).

8.5 Any other relief as deem proper in the interest of justice to the applicant may also kindly be passed against the respondents.

3. The first preliminary objection is that the matter of alleged Overtime allowance pertains to the period when the applicant was admittedly posted in Delhi Division under DRM, NR, New Delhi. From the side of the applicant, it is said that presently, the applicant is posted in Lucknow Division (at Faizabad) which comes within the territorial jurisdiction of this Bench of the Tribunal.

4. The second preliminary objection is that earlier this very subject matter has already been adjudicated upon in O.A. No. 445/2007 (Pradeep Kumar Mishra Vs. UOI). It was finally decided on 18.1.2008 (Annexure 1) with a direction to the respondents to consider the representation covered under Annexure 8 dated 3.10.2004 and Annexure 9 dated 19.3.2009 by passing reasoned order as per rules and regulations.

4. In compliance of the above direction, the representation has been considered and rejected as conveyed vide letter dated 8.1.2010 (Annexure 2). The relevant portion of the order is as under:-

“The matter was duly examined on the basis of records by the competent authority and it is revealed that the overtime

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claims received from Sri Pradeep Kumar Mishra and same were sent to Commercial Inspector for verification as ordered by the competent authority before communicating sanction. The CMI on examination of the overtime claim on the basis of documents available at the station and the statements of commercial clerk who endorsed the OT vouchers has reported that no such orders for overtime have been given nor is any such register available indicating entry for the overtime claim for the period in question. Further, CMI has stated that on investigating the overtime claims statement signed by the concerned staff i.e. CC/BDXT it was conceded by the dealer that he had signed the overtime slips under pressure without verifying records. It was also stated by the concerned staff at the station that the certificates No.1 to 3 at footnote of the overtime slips were also added by the employee himself. In view of the factual position as elucidated above the claim for overtime as submitted by the applicant cannot be sanctioned and the same is accordingly rejected.”

5. Concededly, the present O.A. has also been filed in respect of same Overtime bills. Learned counsel for applicant draws attention of this Tribunal towards an order dated 31.3.2010 passed by this Tribunal disposing of an M.P. No. 810/2009 by means of which the execution of the order was sought (Annexure 8). The perusal of this reveals that at the time of disposal of above application, it was submitted on behalf of the respondents that the direction (to dispose of the pending representation) has already been complied with and therefore, the execution application be treated as in-fructuous. From the side of the applicant, it was submitted that fresh set of bills relating to claim has been sent on 9.9.2009. But in this regard, no information was available to the

counsel for other side nor copy of such bills were placed on record.

In the circumstances, it was observed by this Tribunal that the direction has already been complied with. Finally, the execution application was dismissed. However, it was also added if the applicant had any further grievance in respect of fresh bills, stated to have been submitted, he is at liberty to file fresh O.A.

6. Under the garb of this observation, the present O.A. is said to have been filed. In the entire O.A., there is no averment in respect of filing any fresh bills. There are also no fresh bills on record. Moreover, the applicant still could not bring on record any orders issued by competent authority in his favour for performing alleged overtime duty. There is also no averment in the entire O.A. that he was ever directed by any competent or higher authority to perform overtime duty. He rather on his own, claims to have performed overtime duties for several hours on account of one colleague being on occasional leaves. But this itself would not entitle him to claim Overtime, particularly when there is neither any order nor any register showing any entries in his favour and this matter has already been adjudicated in the aforesaid O.A. against him. In this back drop, this O.A. is not maintainable. It is also hit by principle of estoppel and res-judicata. The principle of res-judicata rests on the maxim taken from Roman law. It is a fundamental doctrine that there must be end of litigation. Finally O.A. is dismissed. No costs.

Alok Kumar Singh
Justice Alok Kumar Singh
Member (J) 28.2.12

HLS/-