

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL-LUCKNOW BENCH

LUCKNOW.

~~1091~~  
T.A. NO. 1019 of 1987.

Ganga Ram..... Applicant.

Versus

The Union of India & others..... 0 pp. Parties.

Hon'ble Mr. Justice U.C.Srivastava-V.C.

(By Hon'ble Mr. Justice U.C.Srivastava V.C.)

The applicant who was trolleyman working at the railway station Mankapur filed a Writ Petition against the order of recovery which was being made from him in ~~view~~ <sup>respect</sup> of over time ~~amount~~ allowance which was paid to him earlier.

According to the ~~respondent~~ <sup>applicant</sup> he was a trolleyman and every day two hours extra duty was taken from him. The applicant protested against the same thereafter the Railway Administration decided to pay him over-time allowance and it was paid to the applicant but later on the said amount was ordered to be deducted without prior notice to the applicant and recovery order has been passed. This writ petition has been filed ~~firstly~~ in the High Court Allahabad and by operation of law this file has been transferred to this tribunal.

The respondents have opposed the claim of the petitioner and it has been pointed out the applicant was working as trolleyman in the scale of Rs. 210-270 at Mankapur under PWI, but he was essentially intermittent worker under hours of ~~exempt~~ employment Regulation and his duty hours ~~maxx~~ are 72 hours per week and he did not work more than the statutory hours of work, as such he was not entitled to over time, and as per <sup>down</sup> policy laid by the Railway Board under their circular no. E/

conceded  
10/9/1982

(LL) 73/HER/(RTA)/7 dated 13.6.74 it was ordered under Divisional Railway Manager's (P) XR Telegram No. E/vi/34/Engg. (Bill dated 1.5.1982 that the recovery on account of over payment of overtime made to the petitioner may be recovered at the rate of Rs. 100/- per month and thus the recovery was ~~maxx~~ being made. It has been stated that the acceptance of 'Railway Labour Tribunal, 1969 Award (also known as Miyan Bhai Award), a new concept of roastering was introduced in which the roastered ~~hour~~ hours as well as the rate of over time allowance ~~pay~~ payable to the staff in excess of the ~~roastered~~ ~~hour~~ hours were changed from 1.8.1974 and the said award provides the classification of Trolleyman, Chowkidar and some of the Gateman in 'Essentially Intermittent' (E.I.) category, and according to ~~w~~ which they were required to do - (a) 10 hours' duty at a junction Stations, where accommodation has been provided at a distance of more than 0.5 Kms. from the place of duty, and (b) At road side stations where accommodation to the staff has been provided within 0.5 Kms. of their place of duty, the duty hours shall be 12 hours a day or 72 hours per week. Mankapur Station is road side station, as such the applicant may not get the same, but he was made payment of overtime by mistake for which the recovery was being made from the order and circular issued by the Railway Administration which has been mentioned above. It appears that the applicant was essentially intermittent ~~worker~~ trolleyman that is for 72 hours ~~maxxx~~ job in a week. as such the recovery which is being made cannot be said to be the illegal. As such the amount was wrongly paid to the applicant for which the

(AC)

Railway Administration is responsible. The ~~RA~~ recovery so made from the applicant is not illegal, but the applicant was not to suffer <sup>mistake and neglect</sup> because of the ~~instructions~~ by the respondents. As such the application deserves to be dismissed. It is open for the Railway Administration to ~~xx~~ reduce the amount of recovery and to recover the same from the applicants in easy instalments <sup>in the application stand disposed of in this manner</sup> as the applicant alone is not to suffer. No order as to the costs.

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Vice Chairman.

Dated: May 4, 1992.

(DPS)