

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

PATNA BENCH : PATNA

Registration No. OA - 6 of 1990.

Jay Shankar Prasad & Others ... Applicants

Versus

The Union of India & Others ... Respondents

CORAM : Hon'ble Shri P. S. Habeeb Mohamed, Member (Admin.)

Hon'ble Shri S. R. Sagar, Member (Judicial)

Counsel for the applicants ... Mr. Sadanand Jha
Mr. B. Mishra

Counsel for the Respondents ... Mr. J. P. Singh

ORDER

Shri P. S. Habeeb Mohamed, Member(A) : Jay Shankar Prasad and 30 others were employees under the Eastern Railway have filed this application under section 19 of the Administrative Tribunals Act and have prayed for the following reliefs :

- a) The Tribunal be pleased to hold that subjecting the applicants to 12 hrs. duty roster per day was illegal, arbitrary and violative of article 14, 16, 21, & 23 of the Constitution of India.
- b) The Tribunal be further pleased to direct the respondents to forthwith discontinue the 12 hrs. duty roster to which the applicants are being subjected to and restore 8 hrs. duty roster.
- c) The Tribunal be further pleased to hold and direct the respondents to pay extra remuneration including over time, night duty allowance and other allowances permissible under law to the applicants from the time they have been subjected to 12 hrs. of roster duty per day from that of 8 hours roster duty.

2. It is not in ~~any~~ dispute that the rules relating to change of classification of staff is as per the following rule :

11 Determining Classification of Railway Servants
Classification of the railway servants, governed under H.O.E.R. is determined on the basis of a factual job analysis conducted to assess the work load of each category. When the conditions required for classifying the staff as "Intensive", "Essentially Intermitted" or "Excluded" are fulfilled, the staff is classified as such under the orders of the competent authority. Before classification all railway servants are assumed to be "Continuous" workers.

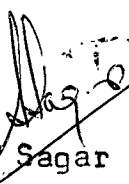
Change of Classification

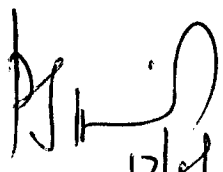
The classification of the staff is subject to a change in accordance with quantum of work from time to time. The Railway Board have decided that job analysis for 3 consecutive days or 72 hours should be conducted to assess the work load of any category of the railway staff for review of the classification under Hours of Employment Regulation. The job analysis may be conducted either independently or jointly with the Labour Enforcement Officers nominated by Regional Labour Commissioner. (R.B's. No. E (LWA) 69/HER/23 of 3-3-71) (N.R., S.No. 5265).

G.M's. sanction will be the necessary for change of classification.

3. The only ground taken by the respondents is that there has been reductionⁱⁿ work load in the concerned Loco shed and approval of the General Manager has been taken only in respect of the category of ^{Coal} ~~Whole~~ Checkers to which applicant~~s~~ 8 and 9, Baikuntha Sharma and Ganga Prasad Yadav belonged. It was admitted by the learned counsel for the respondent~~s~~ that though recommendation~~s~~ have been sent to the appropriate authority^{for others} for change of classification, no orders have been received. We have no hesitation therefore in finding that the applicant~~s~~ ^{excepting} ~~applicant~~ ^{accepting} applicants 8 and 9 are entitled to the reliefs, they have

prayed for. The impugned orders in respect of all the applicants ^{excepting} 8 and 9 are hereby quashed and respondents are directed to discontinue the 12 hours duty roster in respect of ^{the} others 29 and pay them their remuneration as per rules. The orders will be implemented within a period of 15 days from the date of receipt of this order. The respondents are directed accordingly. There will be no order as to cost.


(S. R. Sagar)
Member(Judicial)


(P. S. Habeeb Mohamed)
Member(Administrative)