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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

O.A. NO: ---- 199
T.A. NO: 21/88

DATE OF DECISION 7-4-1992

India Security Press Mazdoor Samgh and two ors.
Petitioner

Mr. Keluskar Advocate for the Petitioners

Versus

Union of India and ors. Respondent

Mr. V. M. Bendre Advocate for the Respondent(s)

CORAM:

The Hon'ble Mr. Justice U.C.Srivastava, Vice-Chairman

The Hon'ble Mr. M.Y.Priolkar, Member(A)

1. Whether Reporters of local papers may be allowed to see the Judgement ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the Judgement ?
4. Whether it needs to be circulated to other Benches of the Tribunal ?


(U.C.SRIVASTAVA)

MD
mbm*

(2)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

BOMBAY BENCH

Tr.21/88

1. India Security Press
Mazdoor Sangh,
Nasik Road,
through its General
Secretary,
Shri Tukaram Namdeo Adke,
At and Post: Nasik Road,
Tal. & Dist. Nasik.
2. The India Security Press
Staff Union
through
General Secretary
Prakash Namdeo Sangle
At and Post: Nasik Road,
Tal. & Dist. Nasik.
3. Bhagwat Laxman Pagare,
working as Foreman
India Security Press
at and Post Nasik,
Tal. & Dist. Nasik. .. Applicants.

vs.

1. The General Manager,
India Security Press,
Nasik Road,
Dist. Nasik.
2. The General Manager,
Currency Notes Press,
Nasik Road,
Tal. & Dist. Nasik.
3. Union of India through
The Secretary,
Finance Department,
Govt. of India,
New Delhi. .. Respondents

Coram: Hon'ble Shri Justice U.C.Srivastava
Vice-Chairman.

Hon'ble Shri M.Y.Priolkar, Member(A)

Appearances:

1. Mr.Keluskar
Advocate for the
Applicants.
2. Mr.V.M.Bendre
Advocate for the
Respondents.

ORAL JUDGMENT: Date: 7-4-1992
(Per U.C.Srivastava, Vice-Chairman)

This application has been filed by
two labour unions of India Security Press who
allegedly represent 100% workers and one Bhagwat
Laxman Pagare who is working as a Foreman with

India Security Press at Nasik. They have prayed to issue a writ of mandamus or any other appropriate writ or order prohibiting the respondents from recovering over time allowances paid for ~~a~~ work done beyond 48 hours per week commencing from 1st June, 1983 over interim allowance from the wages/salary of the members of 1st and 2nd applicants and to set aside order dt. 6th March, 1984.

2. Vide order dt. 6-3-1984 ^a government decision was conveyed that the Govt. is not agreeable to include interim relief in the emoluments for computation of overtime allowance even for work beyond 48 hours per week and in view of the said decision of the Govt. the inclusion of the interim relief for calculation of D.O.T. for work done beyond 48 hours per week is being discontinued from the wages/salary payable for the month of March payable in April, 84 and the over payment already made for the period from 1.6.89 to 29.2.84 is being calculated and recovery thereof will commence from the wages/salary payable for the month of April, 84. The applicants have pleaded that employees working in Security Press are governed by the provisions of the Factories Act 1948, Section 59 of the said Act makes ~~is~~ provision for payment of overtime wages to the workers for performance of works beyond 48 hours of a week at the rate of twice ~~x~~ the ordinary rate of wages in a week. During the pendency of the 3rd Pay Commission the Central Government had granted interim relief to the workers. The Central Government had decided the question as to whether interim relief sanctioned by the Government from time to time under the recommendations of the 3rd Pay Commission was to be

taken into account for purposes of calculation of overtime allowance under Factories Act. This decision was taken by the Government vide resolution dated 12th October, 1972. It was thereafter the Government started paying an amount of interim relief to all the employees and also started paying overtime allowances to the employees who were entitled u/s.59 of the Factories Act at double rate. But because of the subsequent decision the applicants filed writ petition which has been transferred to this Tribunal.

3. Respondents in their written reply has stated that the applicants representing Staff Union and their Members are governed by Central Govt. Civil Service Regulation, Fundamental Rules and Supplementary Rules, Pension Rules, Central Civil Services(CCA)Rules,1965,Central Civil Services (Conduct)Rules,1964, Pension Rules,1972 and to certain categories of Applicant No.2 the benefit of drawal of extra wages under Section 59 of the Factories Act,1948 has been allowed under Government Order. It has been stated that later on Standing Committee of the Staff side of National Counsel met on 15th, 16th and 18th July,1983 also raised a demand for parity of the pay scales of Central Government employees with Public Sector undertakings pay scales and pending acceptance of these demands it has been agreed in the meeting ~~that~~ by the employer and representative of the employees that this interim relief would be treated as emoluments only for the purpose of retirement benefits. Govt. sanctioned the interim relief to all groups of employees of the Central Govt. vide order dtd. 2.8.83.

It is because of this agreement the interim relief was granted and it was clearly stated that except for determining retirement benefits the amount of interim relief will not count for any other purpose, yet the applicants are claiming it for other purposes which is not permissible. The respondents have denied the claim of the applicants and stated that they are not entitled to get overtime allowance which was granted to them earlier and rightly order for recovery has been made.

4. Subsequently additional written statement has been filed by the respondents in which it has been stated that vide a circular dtd. 8.5.88 the General Manager, India Security Press has been directed by the Ministry of Finance that in case of employees covered under Section 59 of Factory, 48 the overtime allowance may be calculated by taking into account the interim relief granted in the year 83 & 85. It was further directed that the employees not covered by the provisions of the said Act are not entitled to the said benefit. As such the Government has considered the claim of those who are governed by Section 59 of the Factories Act.

5. Learned counsel for the applicant brought to our notice a decision of this Bench in O.A.292/86 decided on 17.11.87 relying on a Madras decision in which case a direction was issued by the respondents to ensure that interim relief granted in 1983 and 1985 form part of the ordinary rate of wages, while determining the overtime wages payable to the

concerned eligible employees of the said Factory and the respondents are restrained from effecting any recovery of the overtime wages on the ground that such interim relief has been included earlier wrongly in the ordinary rate of wages while effecting the recovery of the overtime wages, and the relief which was granted by the Madras Bench of the Tribunal was more or less in these terms and it was also confined to those who governed by Factories Act.

6. As the respondents have also conceded we have to allow this application in ~~terms except~~ respect of those workmen in the Nasik Factory who are governed by Factories Act the interim relief granted in 1983 and 1985 shall form part of the ordinary rate of wages, while determining the overtime wages payable to them and the respondents are restrained from effecting any recovery of the overtime wages and if any recovery has been made the amount shall be refunded within a period of three months from the date of communication of this order. With the above observation the application stands disposed of with no order as to costs.



(M.Y.PRIOLKAR)
Member(A)



(U.C.SRIVASTAVA)
Vice-Chairman

MD