

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PATNA BENCH, PATNA**

**O.A. No. 802 of 2005
[MA No. 22/07]**

Date of order : 2-8-07

C O R A M

Hon'ble Mr. Amit Kushari, Member[A]

1. Dipankar Mahto son of Late Radha Mahto, Resident of Quarter No. T/3A, Ramdayalu Nagar Railway Colony, P.O. Ramna, Police Station Kaji Mohammadpur, District-Muzaffarpur.
2. Ramesh Pandey, son of Late Rajendra Pandey, Resident of Quarter No. T/3C, Ramdayalu Nagar, Railway Colony, P.O. Ramna Police Station Kaji Mohammadpur, District-Muzaffarpur.

...Applicant.

By Advocate : Shri Gautam Saha.

Vs.

1. The Union of India, through the Secretary, Railway Board, Rail Bhawan, New Delhi.
2. The General Manager, East Central Railway, Hajipur, Vaishali.
3. Chief Personnel Officer, East Central Railway, Hajipur, Vaishali.
4. Divisional Railway Manager, Sonapur Division, East Central Railway, Sonapur, Vaishali..
5. Senior Divisional Personnel Officer, Sonapur Division, East Central Railway, Sonapur, Vaishali.
6. Senior Divisional Operating Manager, Sonapur Division, East Central Railway, Sonapur, Vaishali.
7. Station Superintendent, Ramdayalu Nagar Railway Station Ramdayalu Nagar, Muzaffarpur.

..... Respondents.

By Advocate : Shri R.N. Choudhary.

ORDER

Mr. Amit Kushari, M[A]. :- Shri Gautam Saha argued on behalf of the applicants and Shri R.N. Choudhary argued on behalf of the respondents [Railways] . Their arguments were heard carefully and all the pleadings were perused.

2. The dispute is regarding payment of overtime allowance to the two applicants who are working as Gateman/Pointsman in the Ramdayalu Nagar railway gate since very long. Applicant no. 1 is working in this gate since 17.06.1996 and the applicant no. 2 is working since 05.01.2001. There is also a dispute regarding payment of special pay of Rs. 150/- to them. Since they are Gateman from the Traffic Department they are not getting the special pay of Rs. 150/- which the Gatemen of Engineering Department are getting. Shri G. Saha argued that the duties of Traffic Gateman and Engineering Department gateman are identical and they have to do the same nature of work. Granting special pay to one category and refusing it to other category amounts to violation of Article 14 and 16 of the Constitution of India – Shri G. Saha argued. The applicants are being made to work for 12 hours a day since in the railway records this gate is shown to be a 'B' type Gate. If this gate is upgraded to B-I type or A type or Special type they would be required to work only 8 hours a day and as a consequence they will be entitled to four hours overtime allowance every day. The dispute is whether Ramdayalu Nagar gate is 'B' type gate or is it a higher category gate. Shri R.N. Choudhary draws my attention to Annexure R/7 of the written statement where Ramdayalu Nagar gate appears at sl. no. 101 of the list



of all Railway gates. In this list Ramdayalu Nagar has been shown to be a 'B' type gate. Shri Saha pointed out that this list is an old list and there have been many developments after this. The traffic through Ramdayalu Nagar has increased manifold . He draws my attention to a number of annexures which he has annexed with his OA and rejoinder to the written statement. These annexures include inspection notes of various senior officers who visited Ramdayalu gate. In Annexure A/9 of the rejoinder there is a note signed by Shri A.K. Chandra , Dy. G.M. On 12.11.2005. This note mentions that this gate is 'A' class gate. But since the working rules have not yet been revised the Gatemen are doing 12 hours duty whereas, they should not be on duty for more than 8 hours. Annexure A/10 to the rejoinder shows that the DSTE Mr. Sanjay Nagar and the DSO Shri B.N.P. Verma issued a letter which shows gate no. 7 (Ramdayalu Nagar) as a special type of gate. This order was issued on 6.2.2004. Shri G. Saha also produced a photograph of Ramdayalu Nagar gate (Annexure -8 of rejoinder) which shows that gate no. 7 (Ramdayalu Nagar) is marked as an 'A' type gate. Shri R.N. Choudhary admitted that this gate has a very heavy traffic and it is contemplated that this gate should be given the status of 'A' type gate. But he says that so far no official order has been issued in this matter. Therefore, in the records of the railway authorities this gate continues to be a 'B' type gate even today and that is why the applicants are being made to work for 12 years without giving any over time. Shri Choudhary also pointed out that in the case of Ram Lal Prasad Vs. U.O.I., the Patna Bench of CAT (BCCL 2000 page 152) had held that overtime cases are not maintainable before the



CAT and it should be taken up before the Labour Courts. Shri Saha rebutted this argument to say that this judgment of the Patna Bench of CAT relates to dispute amongst the employees regarding their own classification and difference of OT as a result of classification. The particular case under consideration is not a dispute of classification of the employees themselves ~~is~~ and hence there is no scope of going to the Labour Court. This is a dispute between the railways and the employees and as per the CAT Rules of Practice payment of overtime is an admissible dispute to be looked into by a Single Bench of CAT. Shri R.N. Choudhary does not press this point thereafter.

3. I have carefully considered the whole issue and have gone through all the pleadings. I am of the view that this issue can be settled conclusively by respondent no. 2 himself (General manager, EC Railway, Hajipur) if he comes to a concrete and final decision regarding the categorisation of the Ramdayalu Nagar railway gate. He is also the appropriate authority to decide whether the Gatemen of Engineering Section and Gatemen of Traffic Section should get the same special pay or not and whether they are doing exactly the same nature of duty. This is a technical matter and the Court cannot arrive at a final decision on such issues. I, therefore, direct respondent no. 2 (General Manager, EC Railway, Hajipur) to issue a speaking order within three months of the date of this judgment specifying the following points.

(i) Whether Ramdayalu Nagar gate is 'A' type, specialtype , 'B1' type or 'B' type.

(ii) From which date should this gate be treated as upgraded if it is



not a 'B' type gate anymore?

(iii) Whether the applicants should be treated at par with Engineering Gatemen for drawal of special pay.

4. In case respondent no. 2 arrives at the conclusion that Ramdayalu Nagar gate had been upgraded a few years ago - then the applicants would automatically become entitled to overtime allowance from the date this upgradation is done. In such a situation all the overtime allowance claims should be settled by the respondent no. 2 accordingly within two months of the issuance of speaking order. If respondent no. 2 passes an order that Traffic Gatemen will also get the special pay of Rs. 150/-, in such a situation applicant no. 1 will get the arrears from 17.06.1996 and applicant no. 2 will get the arrears from 05.01.2001 and this should be paid within two months of the issuance of speaking order by Respondent No. 2.

5. With these directions, this OA is disposed of. MA No. 22/07 is also disposed of. No costs.


[Amit Kushari]
Member(A)

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