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BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH, BOMBAY.

Original Application No.619/90.

1. Canteen Stores Department Employees' Union, Khandelwal Bhawan, 1st Floor, 166, Dr.D.N.Road, Bombay - 400 001.
2. Shri Jaywant N.Maladkar, Shantilal Compound, Munal Tilochand Chawl No.2, Room No.10, Jawahar Nagar, Khar (East), Bombay - 400 051.

... Applicants.

V/s.

1. Union of India, through General Manager, Canteen Stores Department, Adelphi, 119, M.K.Road, Bombay - 400 020.
2. The General Manager, Canteen Stores Department, Adelphi 119, Maharshi Karve Road, Bombay - 400 020.

... Respondents.

Coram: Hon'ble Member(A); Shri P.S.Chaudhuri.

Appearances:-

Applicant Union by Mr.R.P.Saxena.
Respondents by Mr.P.M.Pradhan.

JUDGMENT:-

(Per Shri P.S.Chaudhuri, Member(A)) Dated: 13-9-1991

This application under section 19 of the Administrative Tribunals Act, was filed on 27.8.1990. In it the applicant Union and one of its members are seeking a direction that the Ministry of Defence's order dt. 20.1.1987 dealing with the payment of over time allowances to Industrial Employees covered by the Factories Act, 1948 are applicable to them and connected and consequential reliefs.

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2. By order dated 21.3.1988 passed in exercise of the powers conferred by Section 5(6) of the Act, the Chairman has authorised all the Members of the Central Administrative Tribunal to function as a Bench consisting of a Single Member and to exercise the jurisdiction, powers and authority of the Tribunal in respect of such cases or class of cases as are specified in the said order. Cases relating to claims of medical reimbursement, leave, joining time, Leave Travel Concession and Over-time have been so specified in the said order. Further, Mr.R.P.Saxena, Secretary of the applicant Union and Mr.P.M.Pradhan, learned counsel for the respondents both submitted that there were no complex legal issues involved in deciding this case. Besides, after being specifically asked as to whether the matter should go to a Bench of two Members, neither of the counsel appearing before me suggested that the matter should go to a Bench of two Members. In view of this position I have proceeded to hear and decide this case.

3. It is the applicants' case that by order dt. 16.8.1956 the Board of Control, Canteen Services issued instructions regarding payment of over time wages and grant of compensatory.

leave to employees of the Canteen Stores Department, both Industrial and Non-industrial staff. When revised pay scales were introduced w.e.f. 1.1.1973 by Service Order 46/74. dt. 22.8.1974 it was directed that arrears of over time allowances w.e.f. 1.1.1973 would be paid on the basis of revised scales of pay. However, when the 4th Pay Commission scales were introduced w.e.f. 1.1.1986 by O.M. dt. 13.11.1986 it was ordered that:

" The undersigned is directed to refer to the Fourth Pay Commission's Recommendations as contained in Para 26.11 of Chapter 26 of their Report regarding discontinuance of the present scheme of grant of Over Time Allowance to Central Govt. employees. The Govt. have accepted this recommendation. The modalities of implementation of this recommendation are being separately worked out. Final orders on this will issue after details are worked out.

2. In the meantime Ministries/Departments are advised to arrange their work in all offices in such a way as to finish it during the normal working hours. A new work culture has to be evolved in each office so as to obtain the optimum utilisation of the office time and standards of supervision should be tightened to fulfill this objective.

3. In spite of all measures taken to reorganise the work schedule as above, there may be cases of work on holidays and beyond office hours. The Govt. employees should normally be allowed compensatory off days.

4. In exceptional cases where compensatory off days cannot be given compensation for the extra work beyond the prescribed working hours may be made to them under the existing orders as over time allowance on the basis of notional pay admissible to the concerned Govt. employees in the pre-revised scales of Pay/Pay slabs and subject to the same terms and conditions as laid down in the existing orders.

5. These instructions will apply until further orders. Pending cases of over time allowance bills, if any, may also be regulated under these instructions."

The applicants' represented against this, but their representation was rejected. Being aggrieved they filed this application.

4. The respondents have opposed this application by filing their written statement. I have heard Mr. R.P. Saxena, Secretary of the applicant Union and Mr. P.M. Pradhan, learned counsel for the respondents.

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5. The respondents have opposed this application on three grounds. The first is that reliance on Service Order No.46/74 is wholly mis-placed. It is their case that the O.M. enclosed with this Service Order deals with Civilian employees paid from Defence Service estimates working in Defence Establishments who are governed by the Factories Act, 1948. It is their contention that by Service Order 53/77 it was made clear that the financial transactions of the Canteen Stores Department would be reflected in the Civil estimates of the Ministry of Defence w.e.f. 1.4.1977. It was their further submission that the applicants were not governed by the Factories Act, 1948.

I see considerable merit in these submissions.

6. The second contention of the respondents was that the impugned Circular dt. 20.1.1987 dealt with over time allowance to Industrial Employees covered by the Factories Act, 1948 and so was not applicable to the applicants. A plain reading of this order makes it clear ^{that} the respondents' stand is correct.

7. The third contention of the respondents is as stated in the letter dt. 25.7.1990:

"The case regarding payment of overtime at the revised pay scale was again taken up with BOCCS in accordance with the decision taken in the 6th BOC level CNMS meeting held on 2 Aug 1989. It has been turned down by the Ministry again stating that CSD is a Central Govt. department and all the rules applicable to other Central Govt. employees are also applicable to CSD employees. Moreover, none of the CSD depots are registered under the Factory Act, hence those orders which are applicable to employees covered under Factory Act cannot be applied to CSD employees nor it will be possible to make any special provision for CSD employees.

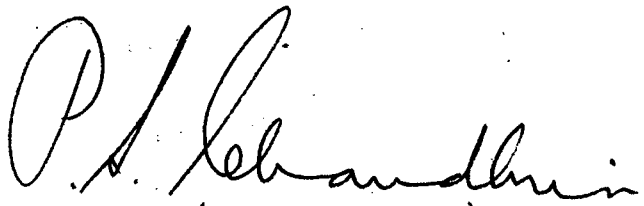
In view of the above, CSD Employees are only entitled for payment of overtime allowance according to Govt. OM No.15012/3/86-Estt (Allowances) dated 13th Nov 86 i.e. as per pre-revised rate."

In view of what we have held earlier I cannot find fault with this stand.

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8. In this view of the matter I see no merit in this application and am of the opinion that it deserves to be dismissed.

9. I accordingly dismiss this application. In the circumstances of the case there will be no order as to costs.


(P.S. CHAUDHURI)
MEMBER(A).

13-9-1991