

(10)

CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH
(CAMP: NAGPUR)

Original Application No: 304/91

Transfer Application No: -

DATE OF DECISION: 23/9/94

Ram Dayal Prasad

Petitioner

Mr. K.D. Deshpande

Advocate for the Petitioners

Versus

U.O.I. & Ors.

Respondent

Mr. R.P. Darda

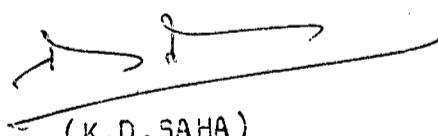
Advocate for the Respondent(s)

CORAM :

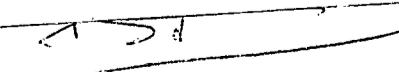
The Hon'ble Shri Justice M.S. Deshpande, Vice-Chairman

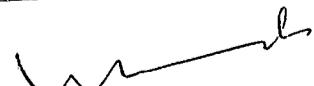
The Hon'ble Shri K.D. Saha, Member(A)

1. To be referred to the Reporter or not? *No*
2. Whether it needs to be circulated to other Benches of the Tribunal? *No*


(K.D. SAHA)
M(A)

M


(K.D. SAHA)
Member(A)


(M.S. DESHPANDE)
Vice-Chairman

(N)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH
CAMP AT NAGPUR

O.A.304/91

Ram Dayal Prasad

.. Applicant

-versus-

Union of India & Ors.

.. Respondents

Coram: Hon'ble Shri Justice M.S.Deshpande
Vice-Chairman

Hon'ble Shri K.D.Saha, Member (A)

Appearance:

1. Mr.K.D.Deshpande
Counsel for the
Applicant.
2. Mr.R.P.Darda
Counsel for the
respondents.

JUDGMENT: Date: 23-9-94
(Per K.D.Saha, Member (A))

In this application filed under section 19 of the A.T.Act,1985 the applicant, a Carpenter (HS Grade II) working in the Ordnance Factory Chanda, has prayed for the following reliefs:

(i) Orders dated 12-6-89 issued on behalf of General Manager cancelling the allotment order of the applicant's quarter and directing him to shift/ takeover new quarter within seven days and the order dated 3.7.89 advising the applicant that he would not be detailed on O.T. u.e.f. 3.7.89 be quashed;

(ii) Respondents be directed to pay the sum of Rs.15,000/- as damage for causing financial hardship, humiliation and mental torture;

(12)

-: 2 :-

(iii) Respondents No.4 and 5 be directed to initiate disciplinary action against respondents No.1 and 2 for misutilisation of power;

In addition a prayer is also made for awarding Rs.6,000/- as cost.

2. The factual matrix giving rise to the application lies within a short compass. Applicant is working in the scale of pay of Rs.1,000/- and above and is entitled to Type-II quarters. According to the applicant he is at present staying in a ground floor quarter allotted to him and on 12-6-89 he received a memo that the allotment pertaining to the quarter he is occupying is hereby treated as cancelled. It is also stipulated therein that he is directed to shift/takeover the new top floor quarter allotted to him within seven days and after expiry of the stipulated period of seven days, penal/market rent would be charged.

It is further stated that the applicant received a memo dt. 3.7.89 advising him that he would not be detailed on OT duty w.e.f. 3.7.89. Applicant submits that stoppage of overtime has been done by way of punishment for not shifting to the top floor quarter, and he initially filed a civil suit in Chandrapur and thereafter again filed a case before the Labour Court which has been dismissed for want of jurisdiction. Aggrieved by these orders the applicant has approached this

Tribunal seeking relief as stated hereinbefore.

3. In their reply the respondents have stated that allotment of quarter to its employees is a privilege attached to the service conditions of its employees and allotment of quarter is done as per HO No.137 dated 28-1-78 as amended from time to time. It is further submitted that as per the seniority list although the applicant was not entitled to allotment of any quarter, he was allotted the accommodation provisionally. As per the practise followed by the respondents the employees with more length of service are given preference for the ground floor quarters to the employees with shorter length of service who are given first floor quarters. The respondents have categorically denied that the stoppage of overtime allowance to the applicant amounts to punishment and stated that this has nothing to do with the change of allotment of quarter. It is further contended that detailing of employees for overtime is the discretion of sanctioning authority and no employee can claim overtime allowance as a matter of right.

4. We have heard the learned counsel for the parties and perused the averments/documents on record. At the time of hearing it is submitted that the applicant has since been allotted a Type-II quarter as per his entitlement to which he has shifted. According to the learned counsel for the applicant, the grievance now rests with the charging of penal rent by the respondents for the period

the applicant occupied the ^{old} quarter prior to his shifting to the new accommodation.

5. On the question of stoppage of overtime allowance the learned counsel for the respondents Shri R.P.Darda drew our attention to the judgment in T.A. No.112 of 87, Sukumar Ch.Khan v. U.O.I. & Ors. rendered by the Calcutta Bench of this Tribunal on 6-4-1990. In that case the applicant Sukumar Ch.Khan who was a Chargeman, Grade-I (Mechanical) at Ishapore Rifle Factory had approached the Calcutta Bench of this Tribunal assailing the orders conveying the decision of the administration that he would not be detailed on overtime work until further orders. The applicant in that case was already involved in litigation in connection with an earlier order of transfer from Ishapore Rifle Factory and according to him the order of stoppage of overtime was malafide and it arose out of his involvement in the litigation as aforesaid. While dismissing the application the Calcutta Bench of this Tribunal held that "The management has the right to compel an employee to work on overtime beyond normal working hours, but an employee has no right to compel the management to give him overtime work." It was further held that "when the discretion of giving overtime duty rests on the management, it is for the management to decide as to who would be detailed for such work from whom they would get more work."

6. We are in agreement with the findings of the Calcutta Bench and we have no hesitation to say that this application is wholly misconceived