

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

Second Floor,
Commercial Complex,
Indiranagar,
BANGALORE- 560 038.

Dated: 22 NOV 1994

APPLICATION NO: O A 867 of 1993

APPLICANTS:- Smt. K. Sumithi

V/S.

RESPONDENTS:- C.G.M., Telecom, B'lore & 3 ors.

- I.
1. Shri P. A. Kulkarni
Advocate,
48, 57th A Cross,
IV Block, Rajaji Nagar,
Bangalore - 560010.
 2. Shri G. Shantappa,
Add. C.G. S.C.
High Court Bldg
Bangalore - 1

Subject:- Forwarding of copies of the Orders passed by the
Central Administrative Tribunal, Bangalore.


--xx--

Please find enclosed herewith a copy of the ORDER/
~~STAY ORDER/INTERIM ORDER~~ passed by this Tribunal in the above
mentioned application(s) on 17th November 1994.

Issued on

22/11/94




DEPUTY REGISTRAR
JUDICIAL BRANCHES.

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

O.A. NO.867/93

THURSDAY THIS THE SEVENTEENTH DAY OF NOVEMBER 1994

Shri A.N. Vujjanaradhya ... Member [J]

Shri T. V. Ramanan ... Member [A]

Smt. K. Sunithi,
Aged about 51 years,
Telephone Supervisor,
Telephone Exchange,
Karwar-581 301.

... Applicant

[By Advocate Shri P.A. Kulkarni]

Vs.

1. Chief General Manager, Telecom Centre
Karnataka Circle,
No.1, Old Madras Road,
Ulsoor, Bangalore-8.
2. Director Telecom,
Mangalore.
3. Telecom District Engineer,
Karwar-581 301.
4. Sub-Divisional Officer,
Telegraphs,
Karwar-581 301.

... Resondents

[By Advocate Shri G. Shanthappa ...
Addl. Central Government Standing Counsel]

O R D E R

Shri A.N. Vujjanaradhya, Member [J]:

1. The applicant is aggrieved by the rejection of her claim of Over Time Allowance ['OTA' for short] has made this application.

2. The case of the applicant in brief is as below:

The applicant is working as Telephone Supervisor ['TS' for short] in Telephone Exchange, Karwar. On



national holidays, in order to run the Exchange, the Department provides for OTA for those who are brought on duty on such days. It is in vogue in all Telephone Exchanges that TS on duty prepare the duty chart for the week and act as the in-charge of the Telephone Exchange for that purpose. On 15.8.1991 the applicant being the TS on duty in-charge of the Telephone Exchange for the duty in question showed herself in the duty chart for the national holiday and performed over time. Government of India had issued instructions from time to time relating to OTA and one such instruction is dated 31.7.1987 [Annexure A-1] and the rates of OTA are stipulated as in Annexure A-2 dated 4.9.1991. The bill submitted by the applicant for OTA was not sanctioned on the ground that because of economy measure she was not required to work as she happened to be a TS. But only in Karwar Division such restriction was brought and not in other Divisions. The applicant is entitled to OTA of Rs.161 for having performed over time duty on 15.8.1991. Her request which came to be rejected by the Telecom District Engineer, Karwar, as per Annexure A-4 was represented against by the applicant before the Director of Telecom, Mangalore who also did not sanction the claim but regretted by his communication dated 14.9.1993 at Annexure A-6. Hence the application seeking the relief that the applicant is entitled to OTA for the duty performed by her on 15.8.1991 and to issue a direction to pass and pay the overtime bill preferred by her.

3. The respondents who deny the claim of the appli-

cant put forward their case thus:

There were strict instructions by the department to reduce expenditure on account of OTA and it was decided to restrict the expenditure on payment of OTA on holidays in respect of all Exchanges. Accordingly, the JTO, Karwar, has prepared the duty chart on 15.8.1991, a public holiday, and informed both the Supervisors orally not to come to duty on 15.8.1991. Still the applicant who showed her reluctance to the instructions, altered the duty chart by inserting duty hours in the chart against her name in red ink on her own responsibility and also altered the entires in the position book. The applicant had never taken the permission to either alter the entries in the duty chart or to attend overtime duty on 15.8.1991. As per Rule 6 of the OTA Rules, it is necessary to ensure that the grant of such allowances is properly controlled because it involves additional expenditure. Because the applicant had deliberately altered the duty chart for the week ending 17.8.1991 as well as the position book for 15.8.1991 and falsified the office records she was proceeded against under Rule 16 of the CCS [CCA] Rules 1965 and was awarded Censure by memo dated 27.7.1993. Because the applicant was not authorised to perform any overtime duty on 15.8.1991, she is not entitled to OTA and, therefore, it was rightly rejected.

We have heard Shri P.A. Kulkarni, learned counsel for the applicant and Shri G. Shanthappa, learned



Standing Counsel for the respondents and also perused the papers produced by the respondents.

5. On our direction, certain points were clarified by filing two affidavits by Shri Achut Ramachandra Naik, the Sub Divisional Officer ['SDO' for short] viz., Respondent 4.

6. Shri Kulkarni mainly contended that when in all the other Telephone exchanges the TSs were also allowed to perform overtime duty and paid OTA, only in Karwar Exchange the TS, viz., the applicant was declined and, therefore, it amounts to discrimination. The next contention of the learned counsel is that the applicant having performed the duty on 15.8.1991, which happened to be a national holiday, the denial of OTA for the duty performed by her is improper and, therefore, interference is called for by this Tribunal by taking a sympathetic view. Both these contentions were controverted ~~to~~ by the learned Standing Counsel and he further contended that because the alleged duty performed by the applicant is unauthorised and she was proceeded against for such action and was censured she is not entitled to the OTA and the claim cannot be sustained.

7. Shri Kulkarni brought to our attention para 2 of the communication dated 31.7.1987 [Annexure A-1] which makes a reference to supervisory staff to be brought on duty on nolidays, and contended that respondents have not produced any material to show that


M

such instruction was withdrawn or modified. He further contended that in all other Telephone Exchanges, TSS were allowed to perform overtime duty and were allowed OTA and only the applicant was discriminated against because of some misunderstanding between herself and the local SDO. However, learned counsel for the applicant did not place any material to show that there was any prejudice entertained against the applicant by R-4 nor did she file any affidavit making such allegations against R-4. Besides, the applicant has not placed any material on record to show that in other Telephone Exchanges TSS were being allowed to perform overtime duty and were being paid OTA. In view of this position, we are unable to give any credence to this contention of the learned counsel for the applicant. On the other hand the respondents have produced a letter dated 14.8.1991, a copy of which was endorsed to all the JTOs including the JTO, Karwar, directing them to reduce OTA expenditure and informing them that Supervisors and Wiremen etc., are not to be brought on OTA on holidays. In view of this specific communication from the SDO, Karwar, who had acted on the direction of the Telecom District Engineer, it cannot be said that this direction was not from the proper authority and, therefore, the SDO had no power to issue such a direction. Rule 6 of the OTA Rules specifically states that only under special circumstances overtime work should be allowed to be done in case of urgent nature that too for good and sufficient reason. In the present case, it has



been pleaded by the respondents that applicant was verbally informed not to attend overtime duty on 15.8.1991 by the SDO, Karwar and the same is sworn to by the said SDO. In spite of such a direction not to attend the work, if the applicant had chosen to attend the Telephone Exchange and altered the duty chart, she did so at her own risk and peril. The duty chart prepared by the JTO had never authorised the applicant to attend to the duty on 15.8.1991 which implies that the applicant was not required to work on that national holiday. If the applicant had chosen to make alterations in the duty chart and recorded therein that she had worked for certain hours, she would be doing so without any authority and that will not entitle her to claim OTA. When this is the position, Annexure A-1 on which the learned counsel for the applicant has relied upon which is dated 31.7.1987 will not come to the aid of the applicant. As the plea of alleged discrimination is not supported by any material, we are unable to hold that the applicant alone is discriminated against and in other Exchanges the TSS were allowed to perform duty on holidays and claim OTA. Consequently, we find no merit in the contention of the applicant and, therefore, we hold that the case put forth by the applicant is not sustainable.

8. Learned Counsel for the applicant appealed to the sympathy of the Tribunal on the ground that the



applicant having performed duty on 15.8.1991 which happened to be a holiday she should not be denied OTA. If the applicant had taken the risk of performing the duty which she was not required to and which she was informed not to perform and which was also specifically mentioned in the duty chart she cannot appeal to the sympathy of the Tribunal and claim the relief. Besides the applicant was proceeded against departmentally for her conduct and was censured. Viewed in this background, we cannot be persuaded to take a sympathetic view in respect of the applicant and grant her relief. Consequently, the second contention also cannot be considered as sound.

9. In the result the application fails and the same is dismissed with no order as to costs.

Sd/-

MEMBER [A]

Sd/-

MEMBER [J]



TRUE COPY

[Signature]
22/11/94
Section Officer
Central Administrative Tribunal
Bangalore Bench
Bangalore