

(3)

CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

Original Application No: 1312/93

Transfer Application No:

DATE OF DECISION: 20.6.1994

Shri B.A.Vaishampayan & Ors.

Petitioner

Shri G.K.Masand

Advocate for the Petitioners

Versus

Union of India & Anr.

Respondent

Shri S.S.Karkera for Sh.P.M.Pradhan

Advocate for the Respondent(s)

CORAM :

The Hon'ble Shri B.S.Hegde, Member (J)

The Hon'ble Shri

1. To be referred to the Reporter or not ?
2. Whether it needs to be circulated to other Benches of the Tribunal ?


(B.S. HEGDE)
MEMBER (J)

(4)
BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH, BOMBAY

OA. NO. 1312/93

Shri Bhalchandra Ambadas Vaishampayan & Ors. ... Applicants

V/S.

Union of India & Anr.

... Respondents

CORAM: Hon'ble Member (J) Shri B.S.Hegde

Appearance

Shri G.K.Masand
Advocate
for the Applicants

Shri S.S.Karkera
for Shri P.M.Pradhan
Advocate
for the Respondents

ORAL JUDGEMENT

Dated: 20.6.1994

(PER: B.S.Hegde, Member (J))

Heard the arguments of Shri G.K.Masand, counsel
for the applicant and Shri S.S.Karkera proxy counsel for
Shri P.M.Pradhan for the respondents.

2. 36 applicants have filed this application seeking
for the following reliefs :

- "(a) That the respondents be directed by a mandatory order, of this Hon'ble Tribunal to pay to the applicants and other similarly placed and designated as Supervisor in the Technical Combined Cadre of the India Security Press at Nasik Road overtime allowance in accordance with the provisions of Section 59 of the Factories Act from the date when the same was stopped by the Respondents on the applicants and other reaching the pay of Rs.2200/- per month.
- (b) That in the alternative to prayer clause (a) Respondents be directed to pay to the applicants and other similarly placed works Supervisors overtime allowance in accordance with Section 59 of the Factories Act with effect from three years preceding the date of the filing of this application in accordance with the ratio of the Judgement of this Hon'ble Tribunal to dated 6.1.1993 given in OA. No. 761 of 1988."

3. The learned counsel for the applicant draws my attention to the judgement of the Division Bench in OA.NO. 761/88 delivered on 6.1.1993 wherein similar issues have been decided by this Bench. The Division Bench had dealt with the various provisions of the Factories Act and Rules and having considered the arguments of both the sides, the Division Bench had rejected the contention of the respondents and made the following observation :-

"It is admitted by the respondents that those Supervisors who are getting a basic salary upto Rs.2200/- are more or less performing the same type of duties as the applicants or those getting over Rs.2200/- as basic pay are being paid extra wages for overtime."

It is also observed that "the respondents on their own have carved out a distinction between those Supervisors who are receiving a basic pay upto Rs.2200/- and those receiving an amount higher than the said amount so as to create two different classes with a view to deny the advantage of overtime wages to the other class. Such a segregation is not countenanced by Section 59(1) and Section 64 read with Rule 100 of the Maharashtra Factory Rules." Accordingly they allowed the prayer of the applicants.

4. In the light of the above, the learned counsel for applicants prayed similar reliefs which is stated at Para VIII (2).

5. During the course of hearing, the learned counsel for the respondents ~~draws~~ my attention to Rule 100 which was amended in 1981. However, he submits that the provisions were not brought to the notice of the Tribunal. This argument

is not convincing. The Division Bench had gone into various Acts and Rules. It is not the case of the respondents that the applicants did not belong to the cadre in which the Division Bench had given relief. The applicants are admittedly drawing more than Rs.2200/- as basic pay, that stand of the Respondents does not survive since the Division Bench decision on the very same issue is binding on us. Since, the relief sought by all the petitioners are one and the same, this can be disposed of by passing a common order. Accordingly, the petitions are allowed.

6. Regarding back wages, prayer made at Para 8 (b) is sustainable and the same is allowed. The OA. stands disposed of in the light of the above.



(B.S. HEGDE)

MEMBER (J)

mrj.