

(4)

CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

Original Application No: 834 of 1994 & 938 of 1994

~~Transfer Application~~

DATE OF DECISION: 21.11.1994

P.R.Chandratre & 40 ors.

& R Y Kadam & 3 ors.

Petitioner

Mr. G.K. Masand

Advocate for the Petitioner

Versus

Union of India

Respondent

Mr. P.M. Pradhan

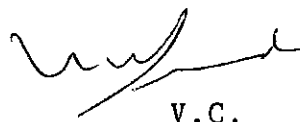
Advocate for the Respondent(s)

CORAM :

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

The Hon'ble Shri

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


V.C.

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH, 'GULESTAN' BUILDING NO.6
PRESCOT ROAD, BOMBAY 1

O.A.NOs. 834/94 AND 938/94

P.R. Chandratre & 40 ors.

..Applicants
in O.A. No.834/94

R.Y. Kadam & 3 ors.

..Applicants
in O.A. No.938/94

V/s

Union of India & Ors.

..Respondents

Coram: Hon.Shri Justice M.S.Deshpande, Vice Chairman

Appearance:

Mr. G.K.Masand
Counsel for the applicants

Mr. P.M. Pradhan
Counsel for the respondents

ORAL JUDGMENT:
(Per: M.S.Deshpande, Vice Chairman)

DATED: 21.11.1994

Heard the counsel. Reply of the respondents not filed. There is no denial of the factual position which has been averred by the applicants and that ^{an} identical matter was decided in favour of the employees by this Tribunal and the Supreme Court has upheld the decision of this Tribunal, which is apparent from the order of the Supreme Court (Exhibit D₂ to the application). The matter is covered by the earlier decision.

2. Joint petition allowed.

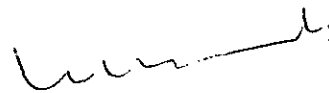
3. Respondents are directed to pay to the applicants the Over Time Allowance of double the rate whenever they perform duties in excess of 9 hours a day or 49 hours per week in accordance with the provisions of

W. S. Deshpande

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S. 59(1) of the Factories Act without restricting the same either to the basic pay of employees concerned or otherwise. The arrears shall be paid within two months from the date of receipt of a copy of this order. No order as to costs.


(M.S. Deshpande)
Vice Chairman

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH, "GULESTAN" BUILDING NO.6
PRESCOT ROAD, BOMBAY 1.

R.P.No. 66/95 in OA No.834/94

and

R.P.No. 68/95 in OA No. 938/94

UOI through Secretary Min. of

Finance & another

..Petitioners

V/s

P R Chandratre & ors.

..Respondents

Coram: Hon.Shri Justice M.S.Deshpande, V.C.

TRIBUNAL'S ORDER:

Dated: 31-7-95

(Per: M.S.Deshpande, Vice Chairman)

By these Review Petitions an identical reliefs of review is sought, by the original respondents, of the judgment dated November 21, 1994 on the ground that many of the employees who are covered by this judgment fall within the supervisory category and they should not be considered as workers within the meaning of Section 59(1) of Factories Act and they will not be entitled to get any payment. An application for condonation of delay was also filed. Even if the delay is condoned it is apparent that the review applicants had not filed replies contesting the Original Applications in spite of two opportunities granted to file the reply.

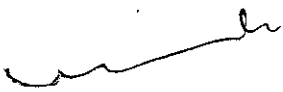
2. Since the factual position in the Review Petitions is identical, reference need be made only to the record of R.P.No. 66/95. On 21.11.94 the Tribunal noted that the reply of

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the respondents was not filed and that there was no denial of the factual position which had been averred by the application and that an identical matter was decided in favour of the employees by the Tribunal and the Supreme Court upheld the decision of the Tribunal, the question whether the employees would be covered by the provisions of S.59(1) of the Factories Act and whether they would be entitled for the benefit under S.59(1) thereof was considered by a Division Bench of this Tribunal in ASHOK PANDHARINATH PADWAL & Ors. Vs. UNION OF INDIA & Ors., O.A.No.761/88 decided on 6.1.93 and it was held that even though some of the applicants were Supervisors they were performing manual work and so the respondents were not entitled to the benefit of Rule 100 framed by the Government of Maharashtra with reference to provisions of Section 64(1) of Factories Act. It was also pointed out that the distinction which was sought to be made on the basis of the pay drawn by the supervisors upto Rs.2200 and those who drew above Rs.2200 was not countenanced by Section 59(1) and Section 64 read with Rule 100 of the Maharashtra Rules.

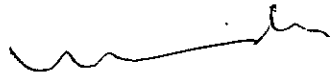
3. The respondents were not diligent in filing a reply and didnot question the position



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that the factual position in the present case was not identical ^{will} ~~to~~ the one given in the judgment referred to. Since the entire position has been considered earlier the Review Petitions cannot be entertained and are dismissed as no ground for review has been made out.



(M.S. Deshpande)

Vice Chairman