

(7)

CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

Original Application No: ✓ 486/94

Transfar Application No: _____

DATE OF DECISION: 8-12-94

Ramdas Badradass Petitioner

Shri. K.S. Kalappura Advocate for the Petitioner

Versus

Union of India & Ors. Respondent

Shri. R.K. Shetty Advocate for the Respondent(s)

CORAM :

The Hon'ble Shri M.R.Kolhatkar, Member (A)

The Hon'ble Shri

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

M.R.Kolhatkar
(M.R.Kolhatkar)
M(A)

J*

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BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

O.A. 486/94

Ramdas Badradass

.. Applicant

Vs.

1. Garrison Engineer (North)
Bombay 400 029
2. Commander Works Engineers (Army)
Bombay 400 005
3. Chief Engineer, Headquarters
SC Engineers Branch, Pune
4. Controller of Defence Accounts
SC Pune
5. Engineer-in-Chief
Kashmir House, DHQ PO
New Delhi

.. Respondents

CORAM : Hon'ble Shri.M.R.Kolhatkar, Member (A)

APPEARANCES

1. Shri. K.S. Kalappura, Counsel
for the applicant
2. Shri. R.K. Shetty, Counsel
for respondents

JUDGMENT

DATED 6-12-94

X Per Shri.M.R.Kolhatkar, Member (A) X

The applicant is MT Driver working in^{the} organisation of Garrison Engineer (North), Santacruz (East), Bombay. According to the applicant, although he is MT Driver in the scale of pay of Rs. 17320-332-040 he was asked to perform the duties of VIP Staff Car Driver, which he performed. According to him, he worked as such from 27/12/1968 to 15/5/1990 and was drawing overtime rate applicable to the staff car drivers till October, 1988. According to

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the applicant, he has been asked to refund an amount of Rs. 3,150 and he has been paid Rs.13,721.95 less as over-time. He has therefore prayed the relief of payment of over-time rate applicable to VIP staff car drivers and to direct the respondents to pay the overtime amount of Rs.16,871.95 as per the details given above.

2. The respondents have stated that MT driver who is deployed to drive VIP staff car cannot be categorised as staff car driver especially because the post of staff car driver does not exist in M.E.S. According to respondents, one of the duties of the MT driver is to drive staff car in addition to his duty to drive load carrying vehicles. The claim of the applicant therefore is unfounded and the recovery is validly done nor is he entitled to any more payment of O.T.

3. The rates of overtime for staff car driver are laid down in Staff Car Rules, in Exhibit 'R4' to the written statement. The general instructions relating to overtime allowance are at Annexure 'R1' to the written statement. The applicant had been paid overtime allowance @ Rs. 6.95 per hour as against Rs. 3.45 per hour to which he is entitled, as per the Department. The applicant himself has claimed over-time allowance @ Rs. 9.95 per hour. In support of his contention, the applicant has enclosed Exhibit 'C' to his rejoinder. The applicant relies on the judgment in the case of K.S. RANGANATHAN Vs. UNION OF INDIA decided by Central Administrative Tribunal, Madras Bench reported in (1992) 20 ATC 155. In this case, the facts were as below :

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" The applicant was working as Postmaster, T.Nagar from 1.2.1973. As a result of restructuring of the department that post had already been placed in Higher Selection Grade I cadre with the pay scale of Rs.700-900. Accordingly that pay scale was allowed to the applicant. However, the formal order of his promotion was issued only with effect from 1-10-1975. Subsequently, he was declared disentitled to the HSG-I salary for the period preceding 1-10-1975 and the overpayment was directed to be deducted. The applicant impugned this order. However, the department sought to justify it on the ground that prior to 1-10-1975 the pay scale of Rs.700-900 had been allowed to the applicant only fortuitously.

The Tribunal upheld the applicant's contention that irrespective of the nature of the appointment, the applicant was entitled to the salary attached to the post held by him"

4. The applicant has also relied on the principle of Equal pay for Equal work for claiming the over-time allowance as payable to the staff car drivers.

5. Before considering the contention of the applicant, we have to be clear about the concept of over-time allowance. Overtime allowance is paid for duty performed beyond office hours, after deducting one hour from the duty. It is an allowance related to the pay drawn by the applicant. The total overtime allowance payable to government servant is not to exceed 1/3rd of the monthly emoluments payable during the month. The overtime allowance therefore cannot be delinked from the pay scale attached to a post. The applicant has not claimed the pay scale of a staff car driver. He has only claimed the overtime allowance attached to the post of a staff car driver while drawing the pay scale of MT driver. The claim of the applicant there-fore is not in consonance with the rules, nor

do we consider that the doctrine of equal pay for equal work is attracted in this case. The case law cited by the applicant is also not applicable to the facts of the case. In Ranganathan's case, the applicant was holding the post carrying the pay scale of 700-900 fortuitously upto 30.9.79 and regularly with effect from 1/10/1979. Therefore the Tribunal held that the order denying the benefit of scale of pay attached to the post, namely Rs.700-900 from 1/2/73 to 30/9/75 was wrong. In this particular case, it is not disputed that the applicant was drawing the scale of pay of MT driver. For driving the staff car, which was part of his duty, he was paid overtime as per rates applicable to his pay scale. The rate of overtime has necessarily to be related to the salary attached to the post held by the applicant. This is what the Department has done. The action of the Department cannot therefore be faulted. There is no merit in the application and we dispose of the application by passing the following order :

O R D E R

O.A is dismissed. No order as to costs.

M.R. Kolhatkar

(M.R. Kolhatkar)
Member (A)