

CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

Original Application No. 73/95 and 77/95
Transfer Application No.

Date of Decision : 24.7.95

Subhashchandra F. Gaikwad

Petitioner

V.K. Paviraj and others.

Shri D.V. Gangal with Shri R.D. Saxena

Advocate for the
Petitioners

Versus

Union of India and others.

Respondents

Shri S.S. Karkera for

Shri P.M. Pradhan,

Advocate for the
respondents

C O R A M :

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)

(C)

CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

Original Application No. 73/95

Subhashchandra F. Gaikwad

... Applicant.

Original Application No. 77/95

V.K. Praviraj & Ors.

... Applicants.

V/s.

Union of India and others

... Respondents.

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

Appearance:

Shri D.V. Gangal with Shri
R.P. Saxena, counsel for
the applicant.

Shri S.S. Karkera for Shri
P.M. Pradhan, counsel for
the respondents.

JUDGEMENT

Dated: 24.7.95

¶ Per Shri B.S. Hegde, Member (J) ¶

Both the counsel agree that the facts of these cases are similar to OA 1273/93 and OA 203/94 which was decided by this Tribunal on 4.7.94.


2. This Tribunal after considering the rival contention of the parties have passed the following order:

" The respondents are directed to pay the applicants overtime allowance under the provisions of Section 59 of the Factories Act from the date when the same was stopped on the applicants after their reaching Rs. 2200/- basic pay per month. and the payments were restricted to one year prior to 1991. The arrears, if any shall be paid within a period of three months from the date of receipt of this order. "

3. There is no dispute that the ratio laid down in the aforesaid cases are squarely applies to the facts of these cases and the applicants are working in the same department and are similarly situated. In these O.As. the applicants state that no sooner they reached the pay of Rs. 1900/- they were stopped getting the overtime allowance under Section 59 of the Factories Act. Under Section 2(1) of the Factories Act the applicants are treated as worker because they were neither Supervisor nor Manager. Therefore, the order passed by the respondents dated 18.6.94 is not in accordance with Section 64(1) of the Bombay Factories Act.

4. In the result, we allow the O.As and direct the respondents to make payment of overtime allowance to the applicants in accordance with Section 59(i) of the Factories Act. However, the payment is restricted to one year prior to filing of the applicants. Arrears, if any shall be paid within two months from the date of receipt of this order. Accordingly O.A. 73/95 and 77/95 are disposed of.

5. If the applicants are not satisfied with the order regarding payment of arrears, liberty is given to them to agitate the same if they so desire.


(B.S. Hegde)
Member (J)

NS

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

BOMBAY BENCH, BOMBAY

ORIGINAL APPLICATION NO. 73 OF 1995

Sharadchandra F. Gaikwad.

.... Applicant.

V/s.

Union of India, & Ors.

.... Respondents.

I N D E X

Sr.No.	Annexure	Particulars	Page No.
1.		Original Application	1-10
2.		Vakalatnama.	
3.		List of Documents.	
4.	A-1	Order/Notice No.7 dated 18th June, 1994.	11
5.	A-2	Order No.273/S dated 8th March, 1989.	12
6.	A-3	Duty list of the Applicant.	13
7.	A-4	Judgements & Orders in O.A. Nos.761/80, 1273/93, 203/94, 203/94, 834/94 and 938/94 (collectively)	14 - 27
8.	A-5	Supreme Court's Order dt. 27th October, 1994.	28
9.	A-6	Pay-slips (collectively).	29-30

