

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH: :MUMBAI

ORIGINAL APPLICATION NO. 1100/97

Date of Decision: 28.11.2001

Shri Chandrakant Shety.

Applicants

Shri G.S. Walia

Advocate for Applicants

Versus

Union of India & another

.. Respondents

Shri A.L. Kasturi

Advocate for Respondents

CORAM: HON'BLE SHRI S.L. JAIN. .. MEMBER (J)
HON'BLE SMT. SHANTA SHASTRY. .. MEMBER (A)

- (1) To be referred to the Reporter or not?
- (2) Whether it needs to be circulated to other Benches of the Tribunal?
- (3) Library ✓

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(SMT. SHANTA SHASTRY)
MEMBER (A)

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CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH: :MUMBAI

ORIGINAL APPLICATION NO. 1100/97

THIS THE 28 TH DAY OF NOVEMBER, 2001

CORAM: SHRI S.L. JAIN. . MEMBER (J)
SMT. SHANTA SHASTRY . MEMBER (A)

1. Chandrakant Shetty.
2. A.M. Yeolekar
3. Mahesh Dave
4. P.K. Kanawade.
5. R.S. Sirsikar
6. J.A. Shaikh
7. N.A. Shaikh
8. S.R. Raikar
9. S.S. Paleja
10. L.V. Nayak
11. P.S. Dhamapurkar
12. Santosh Chauhan
13. A.K. Tharwani
14. A.V. Beedkar
15. A.M. Jaitpal
16. R.R.Mohite
17. M.S. Panse
18. B.S. Muke
19. D.S. Shelar
20. M.S. Karamchandani.
21. R.D. Dudiya. ... Applicants

All working as Shroff remittance cashier and Head cashier having office at cash and pay department, Western Railway, Churchgate, Mumbai-400 020.

By Advocate Shri G.S. Walia.

20.8.1986 the applicants' office was treated as administrative office. In this order, it was provided that the staff working in field units and workshop are not covered by 5 days week but there were no specific directions in respect of the applicants i.e. Cash and Pay department staff. Accordingly Cash and Pay office, where the applicants are working observed 5 days week. According to the applicants, they were also observing second Saturday of the month as holiday since inception prior to the introduction of the 5 days week. There were instructions from the Railways contained in TS No.235/88 dated 14.9.98 clearly stating that all offices which were observing second Saturday of the month as holiday will be covered by the instructions of 5 days week. This process of observing 5 days week continued for more than a decade. However, the Western Railway administration unilaterally introduced the system of six days week only for the Cash office of the Cash and Pay department for no cause or reason. It was introduced with effect from 11.4.1996 in pursuance of the directions contained in letter dated 03.3.1996 issued by headquarters office. The applicants of the cash office had strongly protested against it as being arbitrary and singling out only the cash staff. The administration therefore, made a reference to the Railway Board for seeking clarification and the Railway Board vide their letter dated 15.5.1996 clarified that only the divisional headquarters office, which are purely administrative have to observe five days week, the Cash

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Versus

1. Union of India, through
The Secretary, Railway Board,
Rail Bhavan, New Delhi.
2. The General Manager, Western
Railway, Churchgate,
Mumbai-400 020. ... Respondents

Advocate Shri A.L. Kasturey. |


O R D E R

Smt. Shanta Shastry. Member (A)

This application is made against the order dated 15.5.1996 and the order dated 11.6.1996 of the Railway Board and the General Manager, Western Railway, respectively, whereby the benefit of Railway Board's letter dated 03.6.1985 introducing 5 days week in the administrative office, which had been granted to the applicants for a long time, was withdrawn.

2. The applicants in this case are working in the Cash and Pay department headed by Chief Cashier in the Western Railway. The case of the applicant is that the Railways introduced the system of 5 days week in the administrative offices with effect from 03.6.1985 and accordingly instructions were issued by the headquarters office vide letter dated 29.5.1985 indicating the working hours. These orders were implemented in the concerned office of the Western Railway including the Cash and Pay department headed by Chief Cashier in the headquarters office under the supervision and control of FA & CAO (West Zone) ^m ~~been~~ considered as administrative office. Even according to the order of the Railway Board dated

20.8.1986 the applicants' office was treated as administrative office. In this order, it was provided that the staff working in field units and workshop are not covered by 5 days week but there were no specific directions in respect of the applicants i.e. Cash and Pay department staff. Accordingly Cash and Pay office, where the applicants are working observed 5 days week. According to the applicants, they were also observing second Saturday of the month as holiday since inception prior to the introduction of the 5 days week. There were instructions from the Railways contained in TS No.235/88 dated 14.9.98 clearly stating that all offices which were observing second Saturday of the month as holiday will be covered by the instructions of 5 days week. This process of observing 5 days week continued for more than a decade. However, the Western Railway administration unilaterally introduced the system of six days week only for the Cash office of the Cash and Pay department for no cause or reason. It was introduced with effect from 11.4.1996 in pursuance of the directions contained in letter dated 03.3.1996 issued by headquarters office. The applicants of the cash office had strongly protested against it as being arbitrary and singling out only the cash staff. The administration therefore, made a reference to the Railway Board for seeking clarification and the Railway Board vide their letter dated 15.5.1996 clarified that only the divisional headquarters office, which are purely administrative have to observe five days week, the Cash



and Pay office of Zonal office cannot be treated as administrative offices for the purpose of 5 days week. Therefore, they are required to follow six days week. The learned counsel for the applicants submits that the applicants are working in the Cash and Pay department, it is different than a field unit. The staff of the field units are considered essential staff. They are given the benefit of higher pay scales and various other privileges and perks in the matter of leave overtime, allotment of staff quarters etc., whereas no such benefits are given to the applicants. The cashiers of pay office, who go on line to pay, salary, are observing five days week and for going on round, they are given extra benefit of leave and perks. They are treated as ^{administrative} ~~field~~ staff, but the employees of the cash department who sit in the office are being treated as field staff. This is glaring illegality that the administration had chosen to divide the cash and pay department into two parts for differential treatment in the matter of observing working days. The administration strangely finds only the cash office as the field unit and all other offices as administrative units. Even the common head of the cash and pay department i.e. the Chief Cashier department staff is ^{being} ~~having~~ to five days week. According to the applicants the Railway Board without going into the truth, contention of the administration had mechanically issued the orders as desired by the administration without calling for any explanation from the concerned staff who are going to

suffer due to this unilateral change. It affects their service condition. The applicants have been given step motherly treatment. The learned counsel for the applicant has also contended that while the administration requested the Railway Board for issuing of orders only for cash office, the Railway Board has issued orders to treat the entire cash and pay office of the zonal railway as field units and therefore to make them to work for six days a week. During the past one decade there was not a single complaint of any kind by any of the departments when they were observing five days week. The cash staff has to work for half day on Saturdays. The applicants urge that their functions do not involve any field duty and therefore treating them as a field unit is not at all correct. According to the applicants, they are on par with other ministerial staff in the headquarters, therefore treating them as a field unit is not correct. The applicants have described at length the various functions performed by the staff in the cash and pay office. The applicants have therefore, sought that they are entitled to five days week as before.

3. The respondents submit that initially the Government of India, Department of Personnel and Training vide their OM dated 21.5.1995 issued instructions to introduce five days week in the civil administration offices of Government of India with effect from 03.6.1985. This was without reducing the

working hours. In conformity with this decision of Government of India, Ministry of Railways also decided to introduce five days week in the administrative offices of the Railways with effect from 03.6.1985 and orders were accordingly issued on 24.5.1985 by the Railway Board to the Zonal Railways. Subsequently, the Railway Board noticed that the instructions contained in the letter dated 24.5.1985 were not being followed correctly and certain offices which had been linked with field units and were not administrative offices had started observing five days week. Therefore, the Railway Board clarified vide letter dated 20.8.1986 that such staff who had their working ^{linked to} with the field activity and the ministerial accounts staff in workshop etc., would continue to observe six days week. It was also clarified that Zonal Training School and System Technical Schools were covered by Railway Board letter dated 24.5.1985 and that those who had switched over to the five days week they should revert to the earlier system of six days week. Further instructions were issued on 17.3.1992 in the case of Hospitals and Health Units which had also erroneously switched over to five days week and it was declared that they were not administrative office and therefore, it is outside the purview of five days week order.

4. The respondents submit that the Railway Board had commissioned RITES in June 1995 to conduct study on cash management on Indian Railways. The RITES vide

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report of March 1996 recommended that cash offices should function on Saturdays for shroffing of station earnings. The administration, therefore, examined the issue and found that cash offices do not fall in the five days week working as their working is linked with field activity. The respondents have further pointed out that it is pertinent to note that it is only particular segment of the employees of the cash department out of the total employees who have filed this application to dissuade administration from discharging its function efficiently. The respondents have reiterated that the instructions of five days week issued by the Railway Board of 20.5.1985 do not include the cash and pay department. However, while implementing, it was wrongly implemented. Therefore, it does not mean that the wrong should be continued even after the clarification had been issued by the Railway Board. The respondents have further justified that the Cash and Pay Department is involved with field activity dealing with shroffing of station earnings. The respondents have denied that merely observing second Saturday of the month as holiday by other than divisional headquarters office ~~do not~~ entitles them to observe five days week. The respondents have also justified their action in treating only the cash staff as field unit for observing six days week and allowing them other staff of the pay department to continue with the five days week. According to them it is a reasonable classification and the functions are as such i.e. pay department staff is not required to be on

duty on all Saturdays. The base of working of Pay Office is bills, cheque and cheque abstracts etc. which they are receiving from their respective accounts offices which remain closed on Saturday and therefore, making the pay offices working on Saturdays is of no use. The respondents have given details of how cash staff is involved in field units. They have also produced an executive summary of cash management of Indian Railways of the report of RITES.

5. The applicants have reiterated their stand and have also questioned as to how the respondents could classify the staff from the same office differently when in all other respects of pay leave etc., they ^{are} on par with the ministerial staff.

6. The learned counsel for the respondents has relied on the judgment in the case of State of Jammu & Kashmir Vs. Triloknath Khosa and others reported in AIR 1974 SC (V 61 C 1). In this case it was held by the Supreme Court that the classification of Assistant Engineers between the diploma holders and degree holders for promotion as Executive Engineers was valid. Therefore, the classification of the cash and pay department on the basis of field activities as a field unit is justifiable. The respondents, therefore feel that the applicants have no case and the OA deserves to be dismissed.

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7. We have heard the learned counsel for the applicants as well as the respondents and ^{have} carefully considered the pleadings. We have perused the functions and duties performed by the applicants and the instructions issued by the Railways from time to time. When the Railways took a decision to introduce five days week and orders were issued accordingly, we find that somehow the headquarters office, Western Railway had interpreted the instructions wrongly and had allowed the cash and pay department staff also to observe five days week. It is apparent that there has been some uncertainty about who were covered by the instructions of five days week and who were not. The Railway Board has therefore, issued instructions from time to time clarifying the categories who are required to observe five days week and those who are required to observe six days week. It is apparent that those staff who are involved with the activities of the field units are to observe six days week as before. They were not meant to observe five days week. The stand of the Railway Board has ^{been} reflected in their instructions consistently. It is ^{wrong} the implementation of which by Western Railways which resulted in some staff observing five days week when they were supposed to observe six days week as in the present case. It is also to be noted as pointed out by the respondents that it is only one segment of the cash office staff who have approached this Tribunal, whereas the others have continued to work for six days week. Even the applicants have been working for six days week

after the clarifications were received from the Railway Board on 15.5.1996. After having worked for some time, the applicants have approached this Tribunal in 1997 i.e. after a lapse of more than one year from the date cause of action arose. We are satisfied that this is a policy matter of the Railways and it is not for us to decide whether the cash and pay office is a field unit or not. The Railway Board has also found strength from the report of the RITES. It is also seen that all these applicants are working as shroff remittance of cash and head cashiers and from the manual of the cash and pay offices produced it is seen that the shroff are required to deal with the ^{station} shroff earnings of the stations which is generated from train operation. The function of the shroff is not ^{an} the administrative function, it is clearly ^a the field activity. We have therefore to hold that the applicants are involved in field activity and as such are required to observe six days week. The applicants were unable to produce any orders from other Railways such as Northern Railways or Central Railways showing that the cash and pay office in those Railways were observing only five days week.

8. In the facts and circumstances of the case, in our considered view, the applicants have no case. Accordingly, the OA deserves to be dismissed. We find that while the Railway Board has categorically stated that all the cash and pay office in the Zonal Railways are required to observe six days week. The Western

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Railway headquarters however has permitted five days week in respect of staff of the pay department and ^{are} asking only the staff of the cash department to observe six days week, thus, it is not appear to be proper compliance of the Railway Board's clarificatory instructions. The respondents are required to fully comply with the instructions of the Railway Board and cannot discriminate on their own. The respondents are therefore, directed to reconsider in regard to the staff of the pay department about observing six days week as directed by the Railway Board. In view of the discussion and reasons recorded above, we dismiss the OA without any order as to costs.

Shanta S
(SMT. SHANTA SHASTRY)
MEMBER (A)

P. S. Jain
(S.L. JAIN)
MEMBER (J)

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