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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH

AT HYDERABAD.

O.A. No.779 /1989 Date of the order: 26-2-1990.

Between:

1. Union of India, rep. by the General Manager, S.C.Railway, Secunderabad.

2. The Divisional Railway Manager, South Central Railway, Vijayawada.

... Applicants

A N D

1. A.Veera Swamy

2. The Labour Court, Visakhapatnam rep. by its Presiding Officer.

... Respondents

Appearance:

For the Applicants : Mr.N.R.Devaraj, Additional Standing Counsel for the Railways

For the Respondents : Neither appeared in person nor represented by an advocate.

CORAM:

The Hon'ble Mr.B.N.Jayasimha, Vice-Chairman

A n d

The Hon'ble Mr.D.Surya Rao, Member (Judicial)

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(JUDGMENT OF THE TRIBUNAL DELIVERED BY THE HON'BLE SHRI D.SURYA RAO , MEMBER (JUDICIAL).

The applicants herein are the respondents in C.M.P. No.31/88 on the file of the Labour Court, Visakhapatnam. The Respondent No.1 while working as a Senior Trolleyman in the Engineering Department, South Central Railway, Vijayawada Division, had filed CMP No. 31/88 before the Labour Court, Visakhapatnam under Section 33(c)(2) of the Industrial Disputes Act, 1947, claiming that ever since 1970 the respondents had been extracting 12-hour work per day from him and other similarly situated employees. It was contended that according to the provisions of the Minimum Wages Act they were entitled to be paid wages for work performed over and above normal duty hours and that as per Railway Board Circular No.E(LL)73/AER/MA/7 dated 13-6-74 circulated by the Chief Personnel Officer, South Central Railway alongwith his Letter dated 3-7-1974 as Estt.Serial No.180/74 the duty hours of staff was classified as 'continuous' and "Essentially Intermittent". The respondent herein stated that he was entitled to be paid a sum of Rs.15, 538.32 as over-time wages for work performed over and above the working hours notified under revised duty rosters from 1-8-1974. This amount was calculated on the basis that the respondent had performed 2 hours over-time every day from 1-8-1974 till the date of filing of the application.

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2. On behalf of the Railways, applicants/Respondents, a counter was filed denying the claim of the respondent/ petitioner in CMP No. 31/88 . It was contended that the Respondent/Petitioner was relying upon a Railway Labour Tribunal Award whereby "Essentially Intermittent staff" are rostered to do 72 hours per week or 60 hours a week depending upon the place of residence of the employee and his place of work. All "Essentially Intermittent staff" working at "other than road side stations" who are provided Railway quarters within 0.5 kms. of their place of work are to be rostered for 72 hours a week while those not provided with quarters within 0.5 kms. of their place of work are to be rostered for 60 hours a week. The counter stated that the petitioner was provided with Railway quarter within 0.5 kms. of his headquarters viz. Pithapuram and hence he is not entitled to claim the benefit of the Railway Labour Tribunal Award.

3. The Labour Court by its order dated 31-1-1989 held that it is admitted that the petitioner before it (Respondent No.1 herein) was working at Pithapuram which is a "road side station" and that he had been provided with a quarter. The Labour Court found that the petitioner before it was performing duty on the Railway track covering a distance of 20 k.ms. and

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as such his place of work is not within 0.5 kms. from the place where the residential quarter is allotted to him. Under the Circular Estt.Serial No.180/74 (marked as Ex.M-1), the applicant though classified as "Essentially Intermittent" was liable to perform only 48 hours plus 12 hours a week since his place of duty was more than 0.5 kms. from his place of residence. The Labour Court directed payment of over-time allowance for any work rendered by the employee in excess of his rostered hours calculated at 60 hours per week.

4. We have heard the arguments of Sri N.R.Devaraj, learned Standing Counsel for the Railways, on behalf of the applicants herein. The Respondent No.1 herein has not appeared either in person or by advocate.
Under the rules, Essentially Intermittent Staff posted at road side stations who are provided with residential quarters within 0.5 kms. from their place of duty, have to work for 48 hours per week plus additional 24 hours a week. The 48 hours a week are the standard duty hours which they have to perform while the additional 24 hours constitute preparatory and/or complementary work. Thus, the total hours, which an essentially intermittent worker who is provided with residential quarter within 0.5 kms. from his place of duty has to perform is 72 hours per week. In the case of other essentially intermittent workers that is, those whose quarters are beyond 0.5 kms. from their places of duty, the additional hours which they have to perform in addition to standard hours, is 12 additional hours per week. Thus, these essentially intermittent workers, that is, those who reside beyond 0.5 kms. from the places of their duty, have to perform 60 hours a week, compulsorily. If they perform duty beyond 60 hours a week, they would be eligible for over time. The dispute,

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therefore, centered on the question what is the place of duty of the Respondent No.1. According to the respondent as accepted by the Labour Court, his place of duty was anywhere on the line to an extent of 20 kms. from Pithapuram station whereas according to the Railways the place of duty is Pithapuram ---- station which is his headquarters.

5. It is clear that the Labour Court has assumed that the place of duty of the means anywhere on the line to an extent of 20 kms. on Pithapuram section. If this contention is accepted then the place of duty keeps varying from day to day. Obviously such a view would be untenable. The contention of the applicants herein that the place of duty is the place where the employee is headquartered is though more plausible has not been dealt with by the Labour Court. It stands to reason that the place where the employee reports every day and signs his attendance register is the place of duty and that his duty commences from such time. If the Respondent/Petitioner's argument is accepted, the time taken from signing of the attendance register and proceeding to work on the line anywhere in the section of 20 kms. would not count for duty. Similarly if on a particular day, after reporting at the headquarters and signing the attendance register there is no work on the line, then if the headquarters is not the place of duty, then it must be deemed that he has not done any work for that day. The contention of the Respondent/ Petitioner if accepted would lead to absurd and anamolous results. It would follow that his place of duty is where

he is headquartered. It is nobody's case that the quarter allotted to him is within 0.5 kms. of the headquarters. If that be the case then the Respondent/Petitioner is liable to work for 72 hours a week.

6. For the reasons given above, it is clear that the order of the Labour Court dated 31-1-89 in CMP No. 31/88 is based merely on the assumption that the Respondent/ Petitioner's place of duty is more than 0.5 kms. from his residence. The order is accordingly set aside. The Respondent No.1's claim that he is entitled to over-time wages is accordingly rejected. The application is allowed with these directions. There will, however, be no order as to costs.

(B.N.JAYASIMHA)
Vice-Chairman

(D.SURYA RAO)
Member(J)

26th 1990.

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By DEPUTY REGISTRAR(J).
1/3/90