

Central Administrative Tribunal

HYDERABAD BENCH : AT HYDERABAD

O.A. No. 50/91
T.A.No.

Date of Decision : 10.10.1991

Anwar Ali & 17 others

Petitioner.

Shri B.S.Rahi

Advocate for the
petitioner (s)

Versus

Chairman, Central Board of Direct Taxes & another Respondents

Shri Naram Bhaskar Rao,

Advocate for the
Respondent (s)

CORAM :

THE HON'BLE MR. R. BALASUBRAMANIAN : MEMBER (A)

THE HON'BLE MR. S. SANTHANAKRISHNAN : MEMBER (J)

1. Whether Reporters of local papers may be allowed to see the Judgement? *YM*
2. To be referred to the Reporter or not? *Nb*
3. Whether their Lordships wish to see the fair copy of the Judgment? *Nb*
4. Whether it needs to be circulated to other Benches of the Tribunal? *Nb*
5. Remarks of Vice Chairman on columns 1, 2, 4
(To be submitted to Hon'ble Vice Chairman where he is not on the Bench)

(Signature)
(RBS)
M(A)

(Signature)
(SSK)
M(J)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

DA No.50/91.

Dt. of Order: 10.10.1991.

- | | |
|----------------------|--------------------------|
| 1. Anwar Ali | 12. Mohd. Burhan Sharief |
| 2. R. Venkataswamy | 13. A. Narasimha |
| 3. S. Shoukat Ali | 14. P. Venkataiah |
| 4. M. A. Rahim | 15. Mohd. Fazal Shareef |
| 5. S. Manikyam | 16. S. Dayanand |
| 6. Mohd. Moizuddin | 17. Mohd. Fakruddin |
| 7. G. Narayana | 18. Syed Mazhar |
| 8. R. Babachary | |
| 9. Hameed Khan | |
| 10. Gulam Moinuddin | |
| 11. C. Krishna Swamy | |

....Applicants

Vs.

1. Chairman, Central Board of Direct Taxes,
New Delhi. Through Chief Commissioner of Income Tax, Andhra Pradesh,
Aayekar Bhavan, Basheerbagh, Hyderabad.
2. Chief Commissioner of Income Tax, AP,
Aayekar Bhavan, Basheerbagh, Hyderabad.

....Respondents

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Counsel for the Applicants : Shri B.S. Rahi

Counsel for the Respondents : Shri Naram Bhaskar Rao,
Addl. CGSC

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CORAM:

THE HON'BLE SHRI R. BALASUBRAMANIAN : MEMBER (A)

THE HON'BLE SHRI S. SANTHANAKRISHNAN : MEMBER (J)

(Order of the Division Bench delivered by Hon'ble
Shri S. Santhanakrishnan, Member (J)).

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The applicants have come forward with this application
under section 19 of the Administrative Tribunals Act, 1985
requiring the Tribunal to give directions to the Respondents
to pay the Over Time ^{allowance} admissible to them as per the instructions
and orders issued by the Government of India on the ground that

- 2 -

they were working as Watchman under the Respondents and sent claims to Over Time Allowance ^{recommended as per the} which was/ the memorandum issued by the Chief Commissioner of Income Tax dt.26-7-1973.

The Respondents filed a reply wherein they contended that the applicants ought to have preferred the claims within two years when the same is due and there is no evidence to establish that the applicants preferred any claim within the stipulated time. While admitting that some of the applicants worked over-time as watchman in as much as they were working between 5.00 pm of a day to 10.00 am of the next day, some officials might have been given compensatory-off in lieu of the over-time duty performed by them. In the absence of records it was not found feasible to accept the request of the applicants and hence their claims are rejected as be-lated.

We have heard Shri B.S.Rahi, learned counsel for the applicants; and Shri Naram Bhaskar Rao, learned standing counsel for the Respondents. Records were perused.

The fact that the applicants are working as Watchman under the respondents and that they have worked over time is not disputed by the Respondents. The applicants have produced Annexure A-5 to show that they are working as Watchman under the Respondents some from 1971 and some thereafter. They preferred Annexure A-5 i.e. the application claiming Over-time allowance only in the year 1989 and 1990. Annexure A-I and


282

A-II show that the Watchmen are entitled to claim overtime allowance. As per Annexure A-3, the Chief Commissioner of Incometax worked out the amounts due to the officials and forwarded the same to the Chairman, Central Board of Direct Taxes, for consideration. Names of the applicants are found in Annexure A-3. Even in Annexure A-3 the Chief Commissioner of Incometax points out that practically no records are available and the facts regarding the overtime allowance are furnished on the basis of information furnished by DDOs. Annexure A-4 is the order passed by the 2nd Respondent rejecting the claim of the applicants as it has been found not feasible to entertain the old overtime claims but no reason has been given for rejection.

The main objection raised by the respondents in the counter as well as ⁱⁿ the argument is that claims were not made within the two year limit prescribed in which case it would have enabled them to scrutinise the claims for admissibility or otherwise. At this distant date they are not in a position to scrutinise the admissibility of the claims made in view of the possibility that the overtime performed by the applicants might already have been compensated with compensatory offs. Though the applicants stated that they are working from 1971 onwards, they have preferred claims for overtime allowance only in 1989 and 1990. In fact the present application is presented only on 9.1.1991. Hence, by applying the limitation section of the Administrative Tribunals Act, 1985 we are inclined to restrict the claim for overtime allowance only for

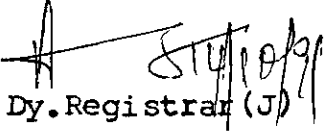
periods subsequent to 9.1.90 i.e., one year prior to the preferring of this O.A. Their claim from 9.1.90 cannot be said belated and the Respondents are bound to consider the same as per Govt. of India instructions.

In view of the above discussion, the Respondents are hereby directed to pay the overtime allowance admissible to the applicants from 9.1.90 in accordance with the instructions/orders issued by the Govt. of India from time to time within three months from the date of receipt of this order. The applicants are not entitled to claim any interest. We, however, make no order as to costs.


(R. Balasubramanian)
Member(A).


S. Santhanakrishnan
Member(J).

Dated: 10-10-1991 October, 1991.


Dy. Registrar (J)

To

1. The Chairman, Central Board of Direct Taxes, New Delhi.
2. The Chief Commissioner of Incometax, A.P
Aayakar Bhavan, Basheerbagh, Hyderabad.
3. One copy to Mr. B.S. Rahi, Advocate, 122, Srichakra Apartments,
10-5-39 Ahmed Nagar, Masab Tank, Hyderabad-28.
4. One copy to Mr. N. Bhaskar Rao, Addl. CGSC. CAT. Hyd.
5. One spare copy.

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TYPED BY
CHECKED BY

COMPARED BY
APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD

THE HON'BLE MR.

V.C.

AND

THE HON'BLE MR.

M(J)

AND

THE HON'BLE MR.

M(J)

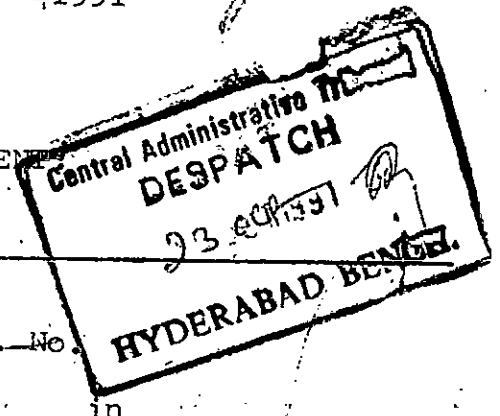
AND

THE HON'BLE MR. R. BALASUBRAMANIAN: E(A)

The Hon'ble Mr. S. Sandhanu Krishna Rao

DATED: 10 - 10 - 1991

ORDER / JUDGMENT



M.A./R.A./C.A. No.

in

O.A.No.

50/91

T.A.No.

(W.P.No

Admitted and Interim directions.
Issued.

Allowed.

Disposed of with direction.

Dismissed.

Dismissed as withdrawn.

Dismissed for Default.

M.A. Ordered/Rejected

No order as to costs.

14/10/91