

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH:  
AT HYDERABAD

OA No.455/1996

Date of Decision: 9.4.1997

BETWEEN:

Bharatiya Telephone Employees Union,  
Line Staff and Group-D, Vizianagaram  
District Rep. by its Secretary and  
52 others.

.. Applicants

AND

1. The Divisional Engineer, Microwave,  
Maintenance , Visakhapatnam
2. The Sub-Divisional Engineer,  
Microwave Maint., Visakhapatnam.
3. The Sub-Divisional Engineer,  
Microwave Maint., Rajahmundry
4. The Sub-Divisional Engineer,  
Microwave Maint., Srikakulam
5. The Sub-Divisional Engineer,  
Microwave Maint., Bobbili.
6. The Sub-Divisional Engineer,  
Microwave Maint., Vizianagaram.
7. The Director, Maintenance,  
Southern Telecom Sub Region, Vijayawada
8. The Director General, Department of  
Telecommunications, New Delhi. .. Respondents

Counsel for the Applicants: Sri K. Venkateswara Rao

Counsel for the respondents: Sri K. Bhaskar Rao

CORAM:

THE HON'BLE SRI H. RAJENDRA PRASAD: MEMBER (ADMN.) *✓* *✓*

ORDER

(PER HON'BLE SRI H. RAJENDRA PRASAD: MEMBER (ADMIN.)

Heard Sri K. Venkateswara Rao learned counsel for the applicant and Sri K. Bhaskar Rao for the respondents.

2. The applicants were originally engaged as casual Mazdoors and absorbed as regular mazdoors in accordance with the provision of a scheme formulated in November, 1988. The grievance of the applicants in this OA is that whenever one of the three regular mazdoors deployed at a microwave station proceeds on leave, the remaining two are asked to perform a 12-hour span of duty, mostly as Chowkidars, to balance the absentee's work. This arrangement is stated to be the result of a decision taken at a meeting of Directors, Microwave Maintenance, at Madras, in April, 1994.

3. The contention of the applicants is that they cannot be asked to perform a continuous duty of 12 hours in violation of the standing orders of the department which prescribed only an 8-hour span. They further say that they were being duly paid overtime allowance in similar situations upto 30th November, 1994, whereafter the practice of payment of OTA was stopped.

4. The applicants seek a declaration that they are entitled for payment of overtime allowance for any work performed in excess of 8 hours on any day after 1.12.1994.

5. The respondents in the counter-affidevit lay stress on the fact that the regularisation of the applicants' services clearly envisaged that, casual mazdoors, after their regularisation, shall continue to perform all of the work that they had been doing earlier, besides any other work assigned

to them by the controlling officer. This proviso, according to the respondents, enables a competent officer of the department to deploy them on chowkidar duties whenever a need arises. And the tour of duty of a chowkidar being ~~12 hours (as against gateman who works only for 8 hours)~~ the respondents maintain that they are required to work for as many hours as are laid down for chowkidars. Conversely, since the applicants are not deployed as gatemen, they cannot claim 8 hours duty.

6. Countering the above argument Sri Venkateswara Rao submits that, firstly, these mazdoors are not asked to exclusively perform the chowkidar-duties but are ordered to act as chowkidars in addition to all their normal duties such as digging trenches, laying cables etc. which they were performing earlier, and <sup>which</sup> continue to perform even now. Secondly, he contends that whereas a gateman is not required to perform any duty other than his own, the applicants, apart from the watch-and-ward duties which they are required to perform off and on, <sup>have as</sup> their overall charter of duty <sup>which</sup> includes 14 other items. Such being the fact, it is unfair to burden the applicants with such excessive load of work on any particular day.

7. There is some force on the argument of the applicants. It is, however, seen that the present situation seems to have arisen wholly on account of a local decision taken in a limited meeting of some unspecified number of directors. The Directors may not be competent to lay down a policy in such matters. It is also not clear whether this issue was ever taken up or discussed with respondent No.1. All that has been produced is a communication highlighting this issue from a Branch Union to Divisional Engineer, Microwave, Visakhapatnam.

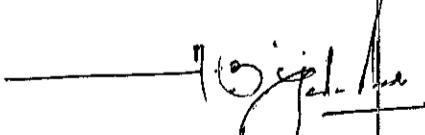
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8. Since this appears to be a matter of larger policy, and is likely to involve a large number of employees similarly situated elsewhere, it would be desirable that the issues arising in this OA are examined and a ~~suitable~~ <sup>proper</sup> decision taken at an appropriately high level by the Respondents.

9. It is, therefore, directed that Director General, Telecommunications, shall have the question examined in all ~~that~~ its aspects, and a suitable and equitable <sup>suitable</sup> decision is taken in the matter within 120 days of the receipt of the copy of this order. The decision arrived at shall be conveyed to all concerned immediately thereafter. A copy of the decision so arrived at shall, when received, be communicated by Director (Maintenance), Southern Telecommunications Sub-Region, Vijayawada, to <sup>the</sup> Applicant No.1.

10. To facilitate a proper examination of the issue involved, a copy of the O.A., as well as the counter affidavit filed by Respondent-7, together with the rejoinder filed by the applicant, shall be forwarded to Respondent No.8. For this purpose Sri K. Venkateswara Rao, the learned counsel for the applicants undertakes to furnish copy of these documents within one week.

Thus the OA is disposed of.

  
(H. RAJENDRA PRASAD)  
MEMBER (ADMN.)

Date: 9th April, 1997.

OA.No.455/96.

Copy to:-

1. The Divisional Engineer, Microwave, Maintenance, Visakhapatnam.
2. The Sub-Divisional Engineer, Microwave Maint, Visakhapatnam.
3. The Sub-Divisional Engineer, Microwave Maint, Rajahmundry.
4. The Sub Divisional Engineer, Microwave Maint, Srikakulam
5. The Sub Divisional Engineer, Microwave Maint, Bobbili.
6. The Sub Divisional Engineer, Microwave Maint, Vizianagaram.
7. The Director, Maintenance, Southern Telecom Sub Region, Vijayawada.
8. The Director General, Department of Telecommunications, New Delhi.
9. One copy to Mr.K.Venkateswara Rao, Advocate, CAT, Hyderabad.
10. One copy to Sri K.Bhaskar Rao, CGSC, CATlHyd.
11. One spare copy.
12. One copy to Honble Member (A)
13. One copy to Dy. Legal (T) Secy.

✓

16/97  
S. L. Rose  
T. COURT

TYPED BY

CHECKED BY

COMPARED BY

APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
HYDERABAD BENCH AT HYDERABAD

THE HON'BLE MR.JUSTICE

VICE CHAIRMAN

and

THE HON'BLE MR.H.RAJENDRA PRASAD:M(A)

Dated: 9-4-1997

ORDER/JUDGMENT

M.A./R.A./C.H.O.

In

C.I.No.

455/96

T.No.

(W.P.)

Admitted and Interim directions  
Issued.

Allowed

Disposed of with directions

Dismissed.

Dismissed as withdrawn.

Dismissed for default.

Ordered/Rejected.

No order as to costs.

pvm

सेंट्रल एशेट्रियल अधिकारण  
Central Administrative Tribunal  
प्रेषण/DESPATCH  
11 JUN 1997  
हैदराबाद बैच  
HYDERABAD BENCH