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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

O.A.No.427/97.

Dt. of Decision : 07-01-99.

1. M.A.Aziz
2. Md.Shareefuddin
3. Md.Muqueemuddin
4. Chandraiah
5. Abdul Ghani

..Applicants.

Vs

1. The General Manager,
Hyderabad Telecom District,
Hyderabad.
2. The Director (Maintenance),
S.T.S.R.Telcommunications,
Saifabad, Hyderabad.
3. The Director General of
Telecommunications, Dak Tar Bhawan,
New Delhi-110 005.
4. The Divl. Engineer, Microwave
Maintenance, Telecommunications,
Hyderabad-50.
5. The General Manager(Maintenance),
Southern Telecom Region,
Bangalore-1.
6. The Chief General Manager,
Microwave Maintenance,
Telecommunications, A.P.Circle,
Hyderabad.

..Respondents.

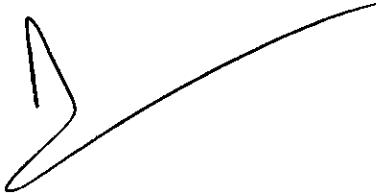
Counsel for the applicants : Mr.S.Ramakrishna Rao

Counsel for the respondents : Mr.V.Rajeswara Rao, Addl.CGSC.

CORAM:-

THE HON'BLE SHRI R.RANGARAJAN : MEMBER (ADMN.)

THE HON'BLE SHRI B.S.JAI PARAMESHWAR : MEMBER (JUDL.)



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ORDER

ORAL ORDER (PER HON'BLE SHRI R.RANGARAJAN : MEMBER (ADMN.))

Heard Mr.S.Ramakrishna Rao, learned counsel for the applicants and Mr.V.Rajeswara Rao, learned counsel for the respondents.

2. There are 5 applicants in this OA. They are working as Chowkidars in the Microwave Maintenance Office under the organisation of Microwave Maintenance in Microwave Stations at Banjara Hills, Hyderabad under R-4. Earlier they were appointed as a Group-D officials as Chowkidars w.e.f., 13-2-76 as can be seen from the order of appointment dated 13-2-76 (Annexure-II). While they are working as Chowkidars they are asked to perform ^{for} the duties 12 hours. The applicants submit that they are to be ^{for day} given duty hours only for 8 hours ~~only~~ and not for 12 hours ~~in~~ view of the circular No.24-11/82-TE.II dated 18-6-83 (Annexure-IX) of R-3 extracted the DGP&T Memo No.43-36/72-PE.I dated 16-7-73. The applicants also submit that as they are regular Chowkidars they are to be given only 8 hours duty and if they work over and above 8 hours they have to be paid over time. This point has been brought out in sub-para-ii of para-3 of the rejoinder filed by the applicants dated 10th September, 1997. The applicants submitted a representation addressed to R-2 by their representations dated 24-1-96 (Annexure-IV). In that representations the applicants have given the nature of work performed by them, the records maintained by them during the duty hours and also indicated the main system maintenance of records and their duties are supervised by official visits of their Microwave Station. That representation was disposed of by the impugned order No. GMM/STR-BG/STE-21/90-97/43 dated 24-10-96 (Annexure-I) stating

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that "all chowkiars working in un-attended Microwave R/R Stations shall perform 12 Hours duty per day. (Even they have been promoted to higher grade, there is no change in the nature of duty)".

3. This OA is filed to set aside the impugned order No.GMM/STR-BG/STE-21/90-97/43 dated 24-10-96 (Annexure-I) of R-4, declaring the same as illegal, ultra-vires and for a consequential direction to the respondents to refix the duty hours of the applicants from 12 hours to 8 hours as per the guidelines issued in D.G.P&T Letter No.24-11/82-TE.II dated 18-6-83 and to extend benefits of OT arrears consequentially w.e.f., 17-2-81 i.e., from the date the applicants were granted temporary status with all consequential benefits.

4. A reply has been filed in this OA. It is stated in the reply that the instructions of R-3 dated 18-6-83 is strictly followed and it has been clearly stated in that letter that the duty hours of Chowkiars is 12 hours. It is further stated that the applicants are regular Mazdeens in different Microwave Stations and earlier they were working as casual labour in the respondents department. They were absorbed as RMs (Regular Mazdeer) in accordance with the instructions in D.O.T order No.5-59/88-TE-II dated 15-11-88 (Annexure R-1 to the reply). It has been clearly indicated in that letter whereby the officials were regularised against these posts of RM will perform all the work being done by casual mazdeens such as cable laying, digging of trenches etc., including any other work assigned to them by the Controlling Officers (like watch and ward chowkiar duties). This has been reiterated in D.O.T Lr.No.19-14/88/TE-II dated 21-1-90 (Annexure-R-2 to the reply).

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It is stated in that letter dated 12-1-90 that the regular mazdeers are sanctioned in replacement of casual labourers and these regular mazdeers will carry out such duties as were assigned to them which are within their capability due to their training and experience in the respondents department.

5. The respondents have also filed an additional reply wherein they have enclosed the instructions of the R-3 dated 18-6-93. This letter indicates the category of staff who can be deputed for 12 hours of duty. Whereas the learned counsel for the applicants on the basis of the same letter submits that the applicants as per that memorandum are to be given work only for 8 hours as per their duty list. Their duty list as given in their representation dated 24-1-96 is also corroborated by the letter of R-4 bearing No. MW-M-HD/E-13/96-97 dated 12-09-96. R-4 is their immediate Controlling Officer and it has been stated in the letter that over a period of time in most of the Microwave Stations the Chewkidars are doing all the above mentioned works which are indicated in that letter which are similar to the duties indicated in the representation of the applicants dated 24-1-96. The applicants on the basis of the above documents also submit that they are doing the work which requires mental and physical strain and hence they have to be given only 8 hours of duty and not 12 hours of duty. The respondents further submit that they are not doing the duty of Cable laying, digging of trenches etc., as entrusted to the casual labourers. But even if they are doing these duties they are not entitled to work only for 8 hours.

6. The respondents in their reply in para-8 submit that there is no frequent movement of public staff or stores moving in and out, causing involvement of mental and physical

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strain. The duty hours are same of all other Microwave Stations w.e.f., 1-11-94. Hence, the question of treating them 8 hours staff does not arise based on their contentions and they are not strained both mentally and physically due to the work load.

7. The respondents have also enclosed a letter No. 24-1/97 Te-II dated 22-10-97 (Page-22 to the additional reply) issued by the Director (TE) to state that the duty list of Chowkidars are examined and they ~~xxx~~ were assigned 12 hours duty and hence the request of the applicants for payment of OTA for duties performed beyond 8 hours cannot be acceded to. It was further stated that the payment of OTA made to the applicants upto 30-09-94 is also not in order.

8. We have heard both the sides. The question involved in this OA is whether on the basis of duty list of the applicants they are entitled to work 12 hours or 8 hours? The Court or Tribunal cannot adjudicate the work load involved in an organisation and cannot also visit these offices and check the type of works performed by the staff in that office. The whole question has to be decided by an authority who is competent to decide the same. In the R-3's letter dated 18-6-83 it has been stated by the R-3 that "as per DGP&T Memo No. 43-36/72-PE-I dated 16-7-73 the Heads of Circles should fix duty hours of Chowkidars in Individual cases keeping in view of the instructions contained in the Department of Personnel C.M.No. 14-11/71-Ets(e) dated 31-12-71. It was further clarified in that letter that the working hours of Chowkidars should be 48 hours a week in cases in which sustained mental and/or physical effort and/or alacrity is involved and the working hours of Chowkidars be reviewed keeping in view these guidelines".

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and refix where necessary. Perhaps due attention was not given to these instructions with the result complaints from staff unions and staff side of the JCM (Departmental Council) ~~there~~ continued to be received." As stated earlier the letter dated 18-6-83 also gives the guidelines for fixing 12 or 8 hours as the case may be. It looks from the reply that no such detailed analysis had been made by the Heads of Circles in the Microwave Maintenance organisation in which the applicants are now working. The learned counsel for the respondents brought to our notice the letter issued by the Director (TE) dated 22-10-97 wherein it has been stated that the staff engaged to work as Chowkidars are to be assigned 12 hours duty. This letter is very crisp and short and it does not give any work study analysis has been made by the said official, is also not indicated. Hence, even though the learned counsel for the respondents submits that the duty to be performed by the Chowkidars has been examined earlier and 12 hours duty has been fixed, we are not satisfied with ^{it appears that the said decision} the decision taken as ~~it~~ was issued without any proper reasoning. Hence it is preferable that the Heads of Circle of the Microwave Maintenance organisation examine this issue in details in accordance with the letter of R-3 dated 18-6-83. While doing so the contentions of the applicants as stated in the above paragraphs should also be kept in mind. On the basis of the analysis made by the said official viz., the Head of the Circle, Microwave Maintenance organisation the duty hours of the applicants should be fixed. If it is to be fixed 12 hours a

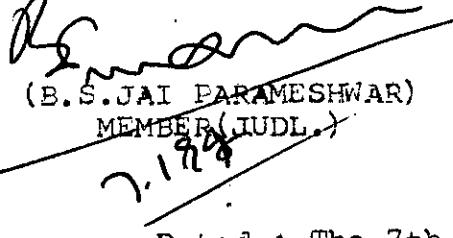
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detailed reasoning should be given to the applicants. As this is a case which has arisen just now in this OA only we feel it is not advisable to grant any OTA for the extra duty if any performed by them for the earlier period earlier to taking a decision in pursuance of this judgement if the duty hours is fixed as 8 hours by the Head of the Circle of the Microwave organisation now. But they are entitled for OTA if it is decided that duty hours is only 8 hours from the date of issue of the decision taken fixing the duty hours of the applicants herein as shown.

9. Time for compliance in taking the decision is three months from the date of receipt of a copy of this order.

10. The OA is ordered accordingly. No costs.


(B.S.JAI PARAMESHWAR)
MEMBER (JUDL.)


(R. RANGARAJAN)
MEMBER (ADMN.)

Dated : The 7th January, 1999.
(Dictated in the Open Court)


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1ST AND 2ND COURT

COPY TO:-

1. ADHNJ
2. HHRP M(A)
3. HBSJP M(J)
4. D.R.(A) ✓
5. SPARE ✓

TYPED BY
COMPARED BY

CHECKED BY
APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH : HYDERABAD.

THE HON'BLE MR. JUSTICE D.H. NASIR :
VICE CHAIRMAN

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

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

THE HON'BLE MR. B. S. JAI PARAMESWAR :
MEMBER (J) ✓

DATED: 25/1/99

ORDER/JUDGMENT

M.A./R.A./C.P. NO.

In

O.A. NO. 427/97.

ADMITTED AND INTERIM DIRECTIONS ISSUED

ALLOWED

DISPOSED OF WITH DIRECTIONS

DISMISSED

DISMISSED AS WITHDRAWN

ORDERED/REJECTED

NO ORDER AS TO COSTS

SRR

(10 copies)

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal
प्रेषण / DESPATCH

21 JAN 1999

हैदराबाद आयोडी
HYDERABAD BENCH