

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH

O.A. 987/99

Date: 24.1.2001

Between:

Kumari Malika Zareena .. Applicant

A N D

1. Union of India,
Secretary to the Govt. of India,
Ministry of Finance,
Department of Economic Affairs,
North Block,
New Delhi - 110 001.
2. The General Manager,
Government of India,
Ministry of Finance,
Department of Economic Affairs,
Security Printing Press,
Mint Compound, Saifabad,
Hyderabad - 4.
3. The Chief Controller of Accounts,
Ministry of Finance, Department of
Economic Affairs, New Delhi.
4. The Senior Accounts Officer,
pay and Accounts Office,
Security Printing press,
Mint Compound, Saifabad,
Hyderabad. .. Respondents

Counsel for the applicant : Mr.K.Venkateswara Rao

Counsel for the respondents : Ms.Shakthi for Mr.J.R.GopalaRao

Coram:

Hon. Shri B.S. Jai Parameshwar, Member (J)

O R D E R

(Per Hon. Shri B.S.Jai Parameshwar, Member (J))

Heard Mr. K. Venkateswara Rao, learned
counsel for the applicant and Ms. Shakthi for Mr. J.R.
Gopala Rao, learned standing counsel for the respondents.



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2. Applicant herein was originally appointed as Auditor in the O/O the Accountant General, A.P. Hyderabad w.e.f. 30-8-1966. Consequent upon the departmentalisation of Accounts she was transferred as Accountant to the O/O Pay/[&]Accounts Officer, I.G. Mint Compound, Hyderabad w.e.f. 30-10-1976. She was later posted to the O/O P.A.O. Security Printing Press, Hyderabad in the year 1984. Subsequently she was promoted as Senior Accountant and she has been continuing as such.

3. The applicant submits that she was paid Over Time Allowance (in short OTA) in terms of Circular No.5/1/74-C4 dt. 6-1-1975 read with letter No. 6-4/74/BN dt. 17-5-75 issued by^{the} respondent No.1 along with other departmental staff since her transfer to the O/O PAO, I.G. Mint/Security Printing Press, Hyderabad. As per the said orders the OTA is applicable to non-industrial staff of the Bank Note Press, Dewas, MP at the time rate for the work done in excess of prescribed hours but not in excess of 48 hours in a week or 9 hours 9 days. In case the work done in excess of the above limit the OTA was to be given at the same rate as is admissible to non-industrial staff. Applicant submits that^{the said'} circular instructions are not applicable to Gazetted Officers and persons drawing basic pay of more than 750 p.m. in the then revised scale of pay. She further submits that for the categories of

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Gazetted Officers and those whose pay was Rs.750/- it was provided that the existing rates of OTA as may be applicable to the non industrial employees of the Security Paper Mill, Hoshangabad or India Security Press, Nashik Road ^{would} be applicable.

It is further mentioned that the time-rate shall mean the single hourly rate of OTA in similar circumstances to the industrial staff of the Bank Note Press, Dewas for the purpose of the said order. The industrial staff was deprived as they were workers as defined u/s. 2(1) of Factories Act, 1948 to whom Section 59 of the Factories Act applied and non industrial staff included the staff other than industrial staff. Applicant submits that she had been paid OTA for the work done in excess of the prescribed hours.

4. While the matter stood thus, the second respondent issued orders bearing No.SPP/AI/19A/93/868 dt. 24-5-93 intimating the applicant that she would be paid an amount of Rs.600/-p.m. for 9 hours working in-lieu of OTA in terms of the order No.F.4(32)/79-BNP dt.21-12-88 issued by the respondent No.1 on the untenable ground that she had crossed the basic pay of Rs.2200/-p.m. as she had crossed Rs.2200/- on 1-5-93. The applicant submits that reading of the letter dt. 21-12-88 issued by ^{the} first respondent clearly indicates that the instructions contained therein are applicable to non-gazetted supervisory staff of the presses and security paper mill under the

administrative control of Currency and Coinage division of the department. She submits that she does not come under the category of non-gazetted supervisory staff. She submits that she comes under the non-gazetted non-supervisory staff and non-industrial and that her duties are confined only to initiate the work under the direct supervision of Asstt. Accounts Officer and Pay and Accounts Officer who are the supervisory officers for all the purposes. Thus she submits that her duties do not fall under supervisory category and that therefore she cannot be denied the payment of OTA in terms of earlier orders. The Instructions contained in letter dt. 21-12-1988 are not applicable to her. Further she submits that the Pay and Accounts Officer, Security Printing Press has clarified in unequivocal terms that the Senior Accountant in his office is performing the duties of initial work and thereby fall under the category of non-supervisory staff yet she is being paid special allowance in terms of letter dt. 21-12-88 in-lieu of OTA. She submits that the Senior Accountant can never be classified in the present status as a supervisory staff in terms of the order dt. 21-12-88 and therefore denial of OTA is clearly untenable in the eye of law.

5. The applicant submitted representations to the second respondent on 18-10-1993 and on several other dates including the one made on 8-2-1999. There was no response to her representations. She submits that



the second respondent addressed to the first respondent several letters in this regard. But, however, there appears to be no decision taken and she is being paid special allowance only on the basis of the letter dt. 21-12-1988 which is clearly untenable. She submits that one Shri Y.V.Narayana Reddy who is working as the Sr.Accountant and who has crossed basic pay of Rs.2200/- and working at IG Mint has been paid OTA at the time rate on par with other officials under the Ministry of Finance. Therefore, denying the OTA to her amounts to discrimination, offending articles 14 and 16 of the Constitution.

6. Hence she has filed this application for the following reliefs :

"to declare that the applicant is entitled for payment of over time allowance in terms of Lr.No.F.5/1/74-CY dt. 6-1-1975 read with Lr.No.F.6/4/74-BNP dt. 17-5-1975 with all consequential benefits from the date on which she crossed Rs.2,200/- in the pre-revised scale by holding the action of the respondents in denying the payment of OTA in terms of Order No.F.4(32)/79-BNP, dt. 21-12-1988 issued by the Ministry of Finance, Department of Economic Affairs, New Delhi vide order No.SPP/A1/19A/93/868, dt. 24-5-1993 issued by the General Manager, Security Printing Press, Hyderabad from the date on which she crossed the basic pay of Rs.2,200/- "

7. The Respondents have filed the reply. They submit that the instructions contained in letter dt. 21-12-1988(Annexure-I to the reply) was issued for payment of special allowance to the non-gazetted supervisory

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staff working in the Presses under the control of Currency & Coinage Division for their extended hours of work at Rs.600/- p.m. for 9 hours work and at Rs.1000/- p.m. for 10 hours work per day when their basic pay exceeds Rs.2200/- (pre-revised). The above order came into effect w.e.f. 1-2-1987. Since the applicant as Sr.Accountant crossed the basic pay limit of Rs.2200/- w.e.f. 1-5-93 she is being paid the special allowance of Rs.600/-p.m. for her extended hours of work upto 9 hours per day by the second respondent and Rs.1000/- for 10 hours work a day as the case may be. Accordingly the applicant is being paid special allowance as per the order dt. 24-5-93 w.e.f.1-5-93. This order dt. 21-12-1988 is applicable to those employees who are non-gazetted supervisory staff. However, the applicant herein is a non-gazetted and non-supervisory staff as clarified by their cadre controlling authority viz. ^{the} Chief Controller of Accounts. In the present case the second respondent department has taken into account only the pay limit and not the aspect of supervisory/non-supervisory since long time. This has been further clarified by the Ministry of Finance by letter No.3/10/99-Cy.I(SPP) dt. 11-4-2000 addressed to the General Manager, Security Printing Press, Hyderabad (Annexure IV) and Ministry of Finance letter No.3/10/99-Cy.I(SPP) dt. 11-4-2000 addressed to General Manager, India Govt. Mint, Hyderabad(Annexure V) stating that all such staff whose basic pay exceeds Rs.2200/-p.m. will not be paid over time allowance. Further they submit



that the second respondent implemented the order dt. 21-12-1988 in case of the applicant by order dt. 24-5-93 and started paying special allowance for the extended hours of work. This department is not paying OTA to any member of the department whose basic pay exceeds the ceiling limit of Rs.2200/-(pre-revised). It is also submitted that the first respondent department issued the instructions to General Manager, I.G.Mint, Hyderabad, to stop payment of OTA with immediate effect to such staff whose basic pay exceeded the ceiling limit of Rs.2200/- p.m. in the pre-revised scales of pay.

8. Thus they have relied upon letter dt. 21-12-88 and the latest letter dt. 11-4-2000.

9. The letter dt. 21-12-88 is at Annexure-I to the reply. This letter is issued to compensate the non-gazetted supervisory staff of the Presses and Security Paper Mill under the control of the Currency and Coinage Division. It is not in dispute that the applicant as Sr.Accountant is a non-gazetted non industrial staff. non supervisory and. Her nature of duties is to initiate work under the supervision of Accounts Officer and Pay and Accounts Officer. Her duties are not supervisory in nature. Only ^{the} non-gazetted supervisory staff are governed by the instructions contained in the letter dt. 21-12-1988. Her contention is valid.

10. Earlier the applicant was governed in the matter of grant of OTA by the instructions contained

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in the letter No.F.6/4/74-BNP dt. 17-5-1975. A copy of the said letter is at Annexure-II to the reply. Para-2 of the letter states that the instructions contained in the letter dt. 17-5-1975 ^{are} ~~is~~ not applicable to ^{the} Gazetted officers and persons drawing basic pay of Rs.750/- p.m. in the revised scale of pay. Further in the same para it is stated that ^{for} the above categories the existing rates of overtime as may be applicable to the non-industrial employees of the security paper mill, Hoshangabad or India Security Press, Nashik Road if any will also apply to the employees of the Bank Note Press, Dewas. That means it is clear that the instructions contained in letter dt. 17-5-1975 ~~are~~ applicable to non-gazetted, non supervisory and non industrial staff. It is not in dispute that the applicant was paid OTA on the basis of this letter till 30-4-1993.

11. The respondents submit that ~~in view of the~~ instructions contained in order dt. 24-5-93/^{the} special allowance was sanctioned to the applicant from 1-5-93. Their main contention is that the basic pay of the applicant was exceeded Rs.2200/- and therefore she was brought under the instructions contained in the letter dt. 21-12-88 and special allowance was paid in lieu of OTA. As already observed the instructions contained in letter dt. 21-12-88 is applicable only to non-gazetted supervisory staff. The applicant is not at all Gazetted supervisory staff. She is non-gazetted, non supervisory and non-industrial staff. This position has not been disputed by the respondents.



12. At a certain stage learned counsel for the applicant attempted to make out a case that the respondent authorities issued the order dt. 11-4-2000 only to deny OTA to the applicant. Then the learned counsel for the respondents fairly submitted that they would produce the relevant file wherein the decision has been taken to withdraw the OTA to those staff whose pay exceeded Rs.2200/-. The learned counsel for the respondent produced the said file. I have perused the same.

13. It may be noted that the applicant in her application specifically stated that one Y.V.Narayana Reddy who was working as the Sr.Accountant in IG Mint, Hyderabad has been paid OTA even though his basic pay exceeded Rs.2200/-. The respondents had not adverted to the said averments in their reply. In fact in the rejoinder the applicant further reiterated the said position and contended that she is eligible to OTA on par with Y.V.Narayana Reddy.

14. When once it is made clear that the applicant is a non-gazetted, non-supervisory and non-industrial staff there is no justification for the respondents to bring her under the instructions contained in the letter dt. 21-12-88.

15. On going through the notings made in the relevant file I noticed at a certain stage the respondent authorities conceded to pay OTA and subsequently took a decision to deny OTA to those whose ^{basic pay} ~~may~~ exceeded Rs.2200/- This decision was taken only after ascertaining the reasons

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from
 for certain General Managers to pay^{-ing} OTA as per the instructions contained in the letter dt. 17-5-1975. They felt that payment of OTA in terms of the letter dt. 17-5-1975 to the staff whose basic pay exceeded Rs.2200/- was not justified. This is the true background for issue of the letter dt. 11-4-2000. It is only on the said decision letter dt. 11-4-2000 was issued. In fact the respondent authorities considered the plea of the applicant that Y.V.Narayana Reddy, Sr.Accountant, IG Mint was paid OTA and sought clarification from the concerned authorities and it was ascertained that no OTA was paid to employees whose basic exceeded Rs.2200/- vide letter dt. 11-4-2000. It is clear that they interpreted that letter as the same is applicable to non-gazetted supervisory staff. The letter dt. 21-12-88 is clearly applicable to the non-gazetted supervisory staff. The said letter is silent as regards the officials who come under the category of non-gazetted non-supervisory and non-industrial staff till 11-4-2000. The respondent authorities themselves interpreted this letter dt.21-12-88 in a manner favourable to its own employees. In that view of the matter denying the OTA in terms of this letter dt. 17-5-1975 to the applicant w.e.f. 1-5-93 and granting special allowance thereafter is quite discriminatory. It is so when they conceded the payment of OTA to Shri Y.V.Narayana Reddy, Sr.Accountant.

16. Now the respondent authorities have specifically instructed not to grant OTA to those



staff whose pay exceeds Rs.2200/-

17. The learned counsel for the applicant attempted to state that letter dt. 11-4-2000 is in the nature of clarification. The instructions contained in letter dt. 21-12-88 came into effect w.e.f. 1-2-87. The letter dt. 11-4-2000 can neither be treated as a clarificatory letter either to the instructions contained in letter dt. 17-5-1975 or to the letter dt. 21-12-1988. It is only a policy decision taken by the authorities to stop payment of OTA to the staff whose basic pay exceeded Rs.2200/- It is prospective in nature. It cannot have retrospective operation.

18. So far as the applicability of the instructions contained in the letter dt. 21-12-88 to non-gazetted supervisory staff it is not at all in dispute. As the applicant is a non-gazetted non-supervisory and non-industrial staff the respondent authorities wrongly applied the said instructions to her and denied her the benefit of OTA.

19. As the respondent authorities have taken a policy decision not to grant OTA to the staff whose basic pay exceeds Rs.2200/- and the same is made effective only from 11-4-2000. From the notings made in the file it is clear that till 10-4-2000 many of the General Managers of India Govt. Mint, Security Printing Presses and other organisation of the Ministry of Finance paid OTA in terms of the letter



dt. 17-5-1975 to those staff whose pay exceeded Rs.2200/-p.m. on the ground that they came under non-supervisory non-gazetted and non-industrial category.

20. In that view of the matter I do not find any reason to deny the benefit of earlier instructions to the applicant till 10-4-2000.

21. Hence the application is liable to be allowed in part.


22. For the reasons stated above the following directions are given :

- (a) Application is allowed in part;
- (b) The applicant is entitled to the OTA in accordance with the instructions contained in letter dt. 17-5-1975 upto 10-4-2000;
- (c) The respondent authorities shall calculate the OTA in accordance with the instructions contained in letter dt. 17-5-75 and pay the same to the applicant within four months from the date of receipt of a copy of this order;
- (d) Any amount paid to the applicant as special allowance from 1-5-93 by virtue of letter dt. 24-5-93 shall be deducted out of the OTA to be paid under para (b) and (c) above;
- (e) Time for compliance is four months from the date of receipt of a copy of this order.



(f) No order as to costs.

23. File bearing No.3/10/99Cy1 (SPP) is perused and returned to the respondents.


(B.S. JAI PARAMESHWAR)
Member (J) 24.1.2001

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL HYDRABAD BENCH:HYDERABAD

COPY TO

~~1ST AND 2ND COURT~~

- 1. HYDRABAD ✓
- 2. H.S.J.P. MEMBER (JUDL) ✓
- 3. H.M.V.N. MEMBER (ADMIN) ✓
- 4. D.T. (ADMIN) ✓
- 5. SPARE ✓
- 6. ADV. CATE
- 7. STANDING COUNSEL

TYPED BY
COMPILED BY

CHECKED BY
APPROVED BY

THE HON'BLE MR JUSTICE VERABA GOPAL REDDY
VICE-CH. JUDGE

THE HON'BLE MR. B.S. JAI PRAMESHWAR
MEMBER (JUDL)

THE HON'BLE MR. M.V. NATARAJAN
MEMBER (ADMIN)

DATE OF ORDER: 24-1-2001

~~MA/PA/CP.ND:~~

IN

CA. NO. : 987/99

(9 copies)

ADMITTED AND INTERIM DIRECTIONS
ISSUED

ALLOWED

Directions

C.P. CLOSED

R.A. CLOSED

DISPOSED OF WITH DIRECTIONS

DISMISSED

DISMISSED AS WITHDRAWN

ORDER/REJECTED

NO ORDER AS TO COSTS

