

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR

O.A. No. 140/1995
T.A. No.

199

DATE OF DECISION 18/10/2001

Girraj Chaturvedi and ors. Petitioner

Mr. Shiv Kumar Advocate for the Petitioner (s)

Versus

Union of India and ors. Respondent

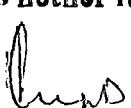
Mr. M.Rafiq Advocate for the Respondent (s)

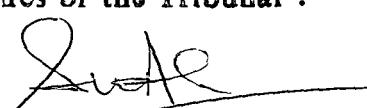
CORAM :

The Hon'ble Mr. S.K.AGARWAL, JUDICIAL MEMBER

The Hon'ble Mr. A.P.NAGRATH, ADMINISTRATIVE MEMBER

1. Whether Reporters of local papers may be allowed to see the Judgement ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the Judgement ?
4. Whether it needs to be circulated to other Benches of the Tribunal ?


(A.P.NAGRATH)
Adm. Member


(S.K.AGARWAL)
Judl.Member

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH : JAIPUR.

Date of Order : 18/10/200

OA No. 140/1995.

<u>S. No.</u>	<u>Name of applicant</u>	<u>Designation</u>	<u>Units</u>
1.	Girraj Chaturvedi	Chief Clerk	PWI/CTR Swaimadhpur
2.	Rambharat Sakhwar	Sr. Clerk	CTCI _____ DO
3.	B M Panchal	Chief Clerk	A.E.N. -do-
4.	Jai Kishan Meena	Sr. Clerk	CPWI -do-
5.	Virendra Kumar	Chief Clerk	C.S.I. -do-
6.	Ashok Dewra	-do-	C.I. -do-
7.	B L Meena	-do-	CTFO/CRD -do-
8.	Mathura Lal Meena	-do-	Mawi E/C.R.D.-do-
9.	R.C. Janggir	Clerk	CTFO/T.R.D. -do-
10.	Bhuri Singh	Chief Clerk	Va Vi Cha(Paa) "
11.	Ramavtar Meena	Sr. Clerk	C.S.I. -do-
12.	Ramphool Meena	-do-	CTCI -do-
13.	Thomas K Methue	Clerk	CPWI -do-
14.	Amarit Lal Meena	-do-	SO/TT -do-
15.	Sayad Mohd. Juneja	Sr. Clerk	ASTE -do-
16.	Chiranji Lal Meena	Clerk	-do- -do-
17.	Yogesh Kumar Bansal	Sr. Clerk	CTCIGGC -do-
18.	P K Tiwari	Clerk	-do- -do-
19.	Abdul Kadir	-do-	PWI Lakheri -do-
20.	Prem Prakash Sharma	M Chasser	CTFO S.Madhopur
21.	Nimesh Kumari	Clerk	C.T.C.I. Kotta
22.	Vasishth	C.C.	PWI Hindon
23.	Pawan Kumar Tiwari	Clerk	C.T.C.I.
24.	Mukesh	Store Clerk	-do-
25.	Jasveer Singh	Store Clerk	PWI Hindon
26.	R K Meena	Chief Clerk	PWI(S) Gangapurcity
27.	Kamlesh Kumar	-do -	-do-
28.	S C Gupta	Clerk	Works Inspector
29.	R. K. Tiwari	Clerk	-do- -do-
30.	Yogender Kumar Bansal	Clerk	Va Vi Gangapurcity
31.	Devender Kumar Sharma	Clerk	Foreman PWI(n) "

9

32.	Sayad Mohd. Ali.	Clerk	Va Vi Foreman	Ganga purcity
33.	Ajij Khan	-do-	PWI (n)	"
34.	Payare Lal Sharma	-do-	Loco Foreman	"
35.	Farrukh Ahmed	-do-	-do-	"
36.	Jagdish Sharm	-do-	-do-	"
37.	Ashok Kumar Sharma	-do-	-do-	"
38.	Virendra Pal	-do-	-do-	"
39.	Mathuri Asthana	-do-	-do-	"
40.	Sarita Sharma	-do-	-do-	"
41.	Pushpa Devi	-do-	-do-	"
42.	Krishan Kumar Dixit	-do-	-do-	"
43.	Jagannath Prasad	Ka Aa(OS)	-do-	"
44.	Ramswaroop Sharma	Clerk	-do-	"
45.	Puran Chand	-do-	-do-	"
46.	Sunil Raj	-do-	-do-	"
47.	Kussum Lata Pathak	-do-	-do-	"
48.	Shivcharan Lal Sharma	-do-	-do-	"
49.	Virendra Swaroop Sharma	-do-	CL Foreman	"
50.	Santosh Kumar Sharma	-do-	S.S. "	"
51.	Bhagwant Prasad	-do-	-do-	"
52.	Abdul Majid	-do-	C.S. "	"
53.	Hari Mohan Meena	-do-	-do-	"
54.	Om Prakash	-do-	-do-	"
55.	Ram Prasad	-do-	-do-	"
56.	Shyam Babu	-do-	Va Vi Foreman	"
57.	Laxminarain Sharma	-do-	C.S.I.	"
58.	Rajendra Sharma	-do-	C.S.I.	"
59.	Roop Kishore Sharma	-do-	LOCO	"
60.	Mohd. Hussain	-do-	Loco Foreman	"
61.	Bhagirath Lal Mahawar	Sr. Clerk	Mukhya Karashan Foreman G.G.C.	
62.	Sri Kishan	Chief Clerk	S.S. Gangapurcity	
63.	Ramji Lal	Clerk	C.T.C.I.	
64.	Shakur Khan	-do-	COCI/GGC	
65.	Rakesh Kumar	Clerk	PWI like	

All the abovenamed applicants are employed in Kota Division
of Western Railway on the posts mentioned against each.



Address for communication :

C/o Office of Shri Ram Bharat, Senior Clerk, C/o Chief Signal and
Telecommunication Inspector, Swaimadhopur, Western Railway.

... APPLICANTS.

v e r s u s

1. Union of India through General Manager, Western Railway, Churchgate, Bombay.
2. The general manager, Western Railway, Churchgate Bombay.
3. The Divisional Railway Manager, Western Railway, Kota Division, Kota.

... RESPONDENTS.

Mr. Shiv Kumar counsel for the Applicant.

None present for the Respondents.

CORAM

Hon'ble Mr. S. K. Agarwal, Judicial Member.

Hon'ble Mr. A. P. Nagath, Administrative Member.



ORDER

(per Hon'ble Mr. A. P. Nagrath)

The issue which has come up for adjudication in this Original Application is as to what should be the total working hours in a week in respect of the clerical staff working in the Subordinate Offices of the Railways. Sixty five applicants before us are working as clerks in various grades in different subordinate offices in Kota division of Western Railway. They are aggrieved with order dated 12.01.1995 (Annexure A-1), by which all senior subordinates of Kota division have been advised that the working hours of the Ministerial staff in the subordinate Units cannot be compared with those of the field units in terms of General Manager(Establishment) Churchgate, letter dated 14/19-9-1998. Prayer of the applicants is that the respondents may be directed to refix the working hours in respect of the applicants limiting to 40 hours in a week.

2. Learned counsel for the applicants assailed the impugned order dated 12.01.1995 on the ground that there is no Rule or Policy directive from the Railway Board which makes a distinction between the field office and a subordinate office. The learned counsel submitted that all subordinate offices are field offices, and they are all expected to work for 6 days in a week but the total number of working hours per week cannot be more than 40. For this, the learned counsel referred to Railway Board's No. E(LL)86/HER/1-62 dated 10.11.1986, mentioned in Annexure A-3 by which it has been stipulated that the working hours of staff in the administrative office as also the field office shall be limited to 40 hours in a week.



3. Learned counsel for the respondents has submitted a brief of written arguments opposing the claim of the applicants. We find from the written submissions that the focus of reply is on applicability of 5 days working week. It has been stressed in various paragraphs that 5 days working week has been confined to "Administrative Office" only and field offices are required to work for 6 days in a week. The controversy before us is not about working for 5 days in a week or 6 days in a week but about the total number of working hours in a week. For this the learned counsel has stated in the written brief that circular of Headquarter dated 26.09.1988, which is filed as Annexure R/l specifically provides for number of working hours in other than administrative office to say that the field offices will work for 6 days in a week with 40 hours of working. No arguments have been advanced to establish that the office of senior subordinates are different from the field units.

4. We have come across various orders of the Railway Board. By order dated 24.05.1985, 5 days working in a week was introduced in the administrative office of the Railways. Vide letter No. E(LL)85/HER/1-15 dated 20.08.1986, it was clarified that 5 days working was introduced only in the administrative offices and field units/workshops are expected to work for 6 days in a week. By letter dated 10.11.1986, the Government of India decision was communicated for increasing the working hours per week in the administrative offices from 37½ hours per week to 40 hours per week. However, by letter dated 05.12.1986, and in continuation of Railway Board's letter of 10.11.1986, it was clarified that working hours of such staff of the field units/workshops which at present work for less than 40 hours per week and are not governed by provisions of the

Factories Act should be raised to 40 hours per week. It will be useful to reproduce the contents of this letter :-

Government of India/Bharat Sarkar RBE No.240/86
Ministry of Railways/Rail Mantralays
(Railway Board)

No.E(LL)86/HER/1-62 New Delhi-1. dated 05.12.1986

The General Managers,
All Indian Railways, CIW, DIW & ICF
-----Etc. Etc.

Sub : Office timings in administrative offices with the increase of working hours on the basis of recommendations of the 4th Pay Commission.

In continuation of Board's orders contained in their letter of even number dated 10.11.1986, it is clarified that working hours of such staff of the field units/workshops etc. which at present work less than 40 hours per week and are not governed by provisions of the Factories Act, should be raised to 40 hours per week.

The actual office timings may be decided in consultation with recognised Unions.

Hindia version will follow."

5. As mentioned earlier, respondents have not brought to our notice any order of the Government which would make a distinction to justify that subordinate offices are not covered under the concept of field offices in the Railways. The impugned order dated 26.09.1988, is only a clarificatory instruction of the Railway which merely states that there is a lot of difference between field unit and a senior subordinates office. Such a clarification given locally by a division, which is not supported by any policy instructions cannot be considered as a Rule governing the subject which authority lies only with the rule making body, which in this case happens to be Railway Board. In our view, the impugned order is not sustainable legally and the prayer of the applicants is liable to be accepted.

6. However, we wish to make it abundantly clear that



in this case before us we are only dealing with the matter concerning working hours of the staff in the subordinate offices who are not put to work in shift duties. In support of their contentions, the applicants have attached Annexure A-5 which is a duty roster under the Hours of Employment Regulationns (HOER, for short). HOER is a subject governed by a definite set of Rules where the staff are classified as 'Continuous', 'Essentially-intermittent' and 'Intensive' when deputed in shifts as per nature of job and place of work. The staff in the shift duty have to perform their duties as per their classification under HOER. They have to work as per the duty roster assigned and such a roster does not preclude deputing clerical staff also, if the requirements of the task make it necessary. Such staff cannot claim to work for only 40 hours in a week. Their working hours and rest periods are necessarily governed by HOER only. The concept of 40 working hours applies only to such of the staff in field offices, including subordinate offices, who are not in shift duties.

7. In the light of the above discussion, while we allow this OA and direct the respondents to refix the working hours of the staff working in subordinate offices to 40 hours in a week, We wish to make it clear that this shall not include such of the staff, including the clerical staff, who are put to work in shift duties under HOER.

7. No order as to costs.

Amrit P
(A.P. NAGRATH)
SM. Member

S. K. Agarwal
(S. K. AGARWAL)
Judl. Member