

5

(RULE - 4)

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

ORDER SHEET

Original Application No. _____/

Misc. Petition No. _____/

Contempt Petition No. 14/03 MOA 2/2001

Review Application No. _____/

Applicant (s) R. C. Chanda

- Vs. -

Respondent (s) W. O. I. Govt

Advocate for the applicant (s) Mr. R. Dutta

Advocate for the respondent (s) B. K. Sharma
R/C Counsel

Notes of the Registry

Date

Order of the Tribunal

This Contempt petition has been filed by the applicant praying for contempt, disregard of the Judgement and order dated 24.5.2002 passed by this Honble Tribunal in O.A. 2/2001.

Laed before the Honble Court for further order.

Am
for Section Officer

Slips to be taken. Notice prepared & sent to D/S for filing the Respondent No. 182 by Regd AD. 5/6/03 4/N 384 to 385 Did 8/6/03

26.2.2003

Heard Mr. R. Dutta, learned counsel for the applicant.

Issue notice to show cause as to why the contempt petition shall not be initiated.

List on 31.3.2003 for order.

Vice-Chairman

mb
31.3.2003

Mr. S. Sarma, learned counsel stated that he has instructed to appear in this matter on behalf of the respondents. Mr. Sarma, also stated that he is submitting his power shortly. The respondents may file reply, if any, within six weeks from today. List on 15.5.2003 for orders.

Vice-Chairman

mb

(2) C.P. 14/2003

No. reply has been
filed

28.3.03

14.5.2003

On the prayer of Mr. S.Sarma
learned counsel for the respondents
further three weeks time is allowed
to the respondents to file reply.

List on 26.6.2003 for
orders.


Vice-Chairman

mb

26.6.2003

No reply so far filed. List
again on 17.7.2003 for orders.


Vice-Chairman

mb

17.7.03 Present : The Hon'ble Mr D.N.Chowdhury
Vice-Chairman.

The Hon'ble Mr N.D.Dayal,
Administrative Member.

The respondents are yet to file
written statement though time was
granted. Three weeks further time is
allowed to the respondents to file
written statement as a last chance.

List on 8.8.03 for order.


Member


Vice-Chairman

pg

8.8.2003

The Respondents 1 & 2 have
filed reply. Put up the matter
on 4.9.03 for further orders, in
presence of Mr.S.Sarma learned
counsel for the Respondents.


Member


Vice-Chairman

mb

4.9.03

Written statement has been
filed by the Respondents. Put up
again on 18.9.03 for orders.


Member


Vice-Chairman

lm

No. reply has been
filed

13.5.03

No. reply has been
filed

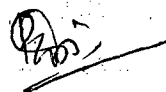
25.6.03

No. reply has
been filed

16.7.03

5.8.03

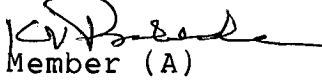
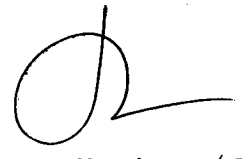

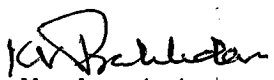

show cause
reply Contemner
Nos 1 & 2 has been
submitted.



(3)

C.P. 14/2003

Office Note	Date	Tribunal's Order
<i>S/couse reply filed by the Contemner.</i> <i>mb</i> <i>21.10.03</i>	18.9.2003	Present : The Hon'ble Sri K.V. Prahala- dan, Member (A). List again on 21.10.2003 for orders. <i>Member</i> Member
<i>Show cause reply filed on behalf of Contemner No-1 & 2.</i> <i>mb</i> <i>22.10.03</i>	<i>mb</i> 21.10.2003	Heard Mr.R.Dutta, learned counsel for the applicant. Ms.U.Das, learned counsel, appearing on behalf of Mr.S. Sarma, learned counsel for the respon- dents, is allowed seven days time to obtain necessary instruction on the mat- ter and to place the order, if any, passed by the High Court in W.P.(C).NO. 8321 of 2002. List the case on 30.10.2003. <i>Vice-Chairman</i> Vice-Chairman
	<i>bb</i> 30.10.2003	List again on 25.11.2003 for further orders. In the meantime, the Respondents are directed to obtain instruction in the matter. <i>Vice-Chairman</i> Vice-Chairman
	<i>mb</i> 25.11.03	<i>no Bench today.</i> <i>Advised to 12.12.03.</i> <i>870</i> <i>h</i>

Office Note	Date	Tribunal's Order
	23.1.2004	<p>Present: Hon'ble Shri Bharat Bhusan, Member (J)</p> <p>Hon'ble Shri K.V. Prahladan, Member (A).</p> <p>Learned counsel for the respondents has today filed copy of the order passed by the Hon'ble High Court in Writ Petition (C) No.8322 of 2002, whereby the operation of the Judgment passed by the Tribunal dated 24.5.2002 in O.A.No.2/2001 has been suspended. Two months time for awaiting reply.</p> <p> Member (A)</p> <p> Member (J)</p>
	25.3.2004	<p>List the case on 30.3.2004 before Division Bench.</p> <p> Member (A)</p>
	30.3.04	<p>Heard Sri R.Dutta, learned counsel for the petitioner and Miss U.Das, learned counsel appearing on behalf of Railway standing counsel. Miss Das prays for some time to get instruction.</p> <p>List before next available Division Bench.</p> <p> Member (A)</p> <p> Member (J)</p>

Writ has been
biked.

File
24.3.04


nkm

bb


11.5.2004 present: The Hon'ble Shri Mukesh Kumar Gupta, Member (J).

The Hon'ble Shri K.V.Prahladan, Member (A).

Heard both sides. Order passed separately.


Member (A)

bb


Member (J)

19.5.04

Copy of the
order has been
sent to the D/Sec.
for filing the
case to the applicant
as well as to the
Advocate for
the Respondent
H/S

6

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Contempt Petition No.14 of 2003 (O.A.2/2001)

Date of Order : This, the 11th Day of May, 2004.

THE HON'BLE SHRI MUKESH KUMAR GUPTA, JUDICIAL MEMBER.

THE HON'BLE SHRI K.V.PRAHLADAN, ADMINISTRATIVE MEMBER.

Shri Rakesh Chandra Chanda
S/o Late R.C.Chanda
Resident of Railway Qrs. No.T/30/B
Upper Babu Patty, Lumding
Dist: Nagaon, Pin-782 447. Petitioner.

By Advocate Mr.R.Dutta.

- Versus -

1. Shri A.K.Malhotra
Divisional Railway Manager
N.F.Railway, Lumding
Dist: Nagaon, Assam
Pin - 782 447.
2. Shri A.Kispotta
Senior Divisional Personnel Officer
(Divisional Railway Manager (P))
N.F.Railway, Lumding
Dist: Nagaon, Assam
Pin - 782 447. Opposite parties/Respondents.

By Mr.S.Sarma, Railway Standing Counsel.

O R D E R (CRAL)

MUKESH KUMAR GUPTA, MEMBER (J) :


We have heard Mr.K.Paul, learned counsel appearing on behalf of Mr.R.Dutta, learned counsel for the petitioner as well as Ms.U.Das, learned counsel appearing on behalf of Mr.S.Sarma, learned Standing counsel for the Railways.

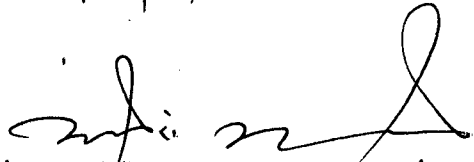
The petitioner alleges breach of directions issued by this Tribunal on 24.5.2002 passed in O.A.2/2001 directing the respondents to make payment of overtime allowance within a specified time. Ms.U.Das, learned counsel appearing on behalf of Mr.S.Sarma, learned Standing Counsel for the Railways, states that the respondents have preferred a writ petition (Civil) No.8322 of 2002 before the Hon'ble Gauhati High Court against the aforesaid order of this Tribunal and vide order dated 23.12.2003 the Hon'ble Gauhati High Court suspended the operation of judgment and order dated 24.5.2002 in the said O.A.

X

In view of the aforesaid facts that the directions issued by this Tribunal passed in O.A.2/2001 has been suspended by the Hon'ble Gauhati High Court, it cannot be contended that there is wilfull disregard of the order of this Tribunal. Hence the present Contempt petition is not maintainable and accordingly the same is dismissed. Notices are discharged.

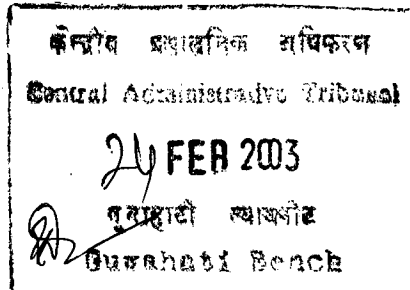
In case, the said W.P.(C). filed by the respondents herein is disposed of in favour of the applicant, he would be at liberty to take appropriate measure/steps. *Is*


(K.V.PRAHLADAN)
ADMINISTRATIVE MEMBER


(MUKESH KUMAR GUPTA)
JUDICIAL MEMBER

bb

26/2/03



6

File by
R.D. Datta
L. Datta
Guwahati Bench

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH :: GUWAHATI

IN THE MATTER OF :

Contempt Petition No. 14 of 2003

In Original Application No. 2 of 2001.

Shri R.C.Chanda : Applicant.

Versus

Union of India & Others : Respondents.

- AND -

A petition under Contempt of Court (CAT)
Rules 1992.

- AND -

IN THE MATTER OF :

Shri Rakesh Chandra Chanda, son of lato
R.C.Chanda, resident of Railway qrs No.
T/30/B Upper Babu Patty, Lumding, Distt.,
Nogaon, Assam. Pin 782447. ... Petitioner.

Versus

1. Shri A.K.Malhotra, Divisional Railway
Manager, N.F.Railway, Lumding, Distt.,
Nogaon, Assam. Pin- 782447.
2. Shri A.Kispetta, Senior Divisional
Personnel Officer (Divisional Railway
Manager(P)) N.F.Railway, Lumding, Distt.,
Nogaon, Assam. Pin-782447. Opposite Parties/
Respondents.

Rakesh.C.Chanda

Contd ... P/2.

THE PETITIONER MOST RESPECTFULLY SHEWETH :

1. That, the petitioner is working as Chief Travelling Ticket Inspector-II (in short CTTI II) in Lumding division of the N.F. Railway and is a continuous worker and is entitled to overtime allowance whenever he is required to perform beyond statutory duty hours. The petitioner performed extra duty hours beyond statutory duty hours for the period from ~~11~~ 11.6.95 to 24.6.95, 13.8.95 to 7.10.95, 5.11.95 to 2.12.95, 3.12.95 to 30.12.95, 31.12.95 to 10.2.96, 7.7.96 to 3.8.96, 4.8.96 to 31.8.96, 8.9.96 to 5.10.96, 6.10.96 to 19.10.96, 3.11.96 to 1.2.97, 2.2.97 to 1.3.97 and prepared the overtime journal and submitted to the office of his immediate superior, The Chief Travelling Ticket Inspector for verification, ~~and~~ certification and transmission to Divisional Railway Manager(P)/N.F. Railway for further action. The Chief Travelling Ticket Inspector forwarded these overtime journal to the Divisional Railway Manager(P), N.F. Railway, Lumding (Opposite Party No. 2) but the petitioner was not paid inspite of no of representations by him. Finding no other alternative, the applicant moved this Hon'ble Tribunal for a direction on the respondents for payment of his overtime dues by filing OA No. 3 of 2000. By orders dated 4.2.2000 the Hon'ble Tribunal directed the respondents who are opposite Parties in this petition to dispose the representation of the petitioner. On 13.10.2000 the Divisional Railway Manager(P), N.F. Railway, Lumding rejected the claim of the petitioner.

Rakesh. K. Chanda

Contd...P/3.

2. As in a earlier application the Hon'ble Tribunal decided that the petitioner is entitled to overtime allowance, the petitioner again moved the Hon'ble Tribunal assailing the order of rejection of his claim for overtime allowance and for a direction ~~on~~ on the respondents for payment of overtime allowance for the period between 1995 to 1997 when he performed extra hours of duty beyond the statutory period by filing OA NO. 2 of 2001. The Hon'ble Tribunal after hearing the parties ~~decided~~ decided vide orders dated 24.5.2002 decided as under:-

"The denial of the over time allowance in the case is therefore not sustainable. The impugned order dated 13.10.2000 is accordingly set aside and the respondents are directed for taking necessary steps for payment of over time allowance to the applicant for the period from 11.6.95 to 24.6.95, 13.8.95 to 7.10.95, 5.11.95 to 2.12.95, 3.12.95 to 30.12.95, 31.12.95 to 10.2.96, 7.7.96 to 3.8.96, 4.8.96 to 31.8.96, 8.9.96 to 5.10.96, 6.10.96 to 19.10.96, 3.11.96 to 1.2.97 and 2.2.97 to 1.3.97 that are pending before the respondent No.3. The respondents are accordingly directed to make the payment of the said overtime allowance within a period of three months from the receipt of the order and after scrutiny and verification of the claim".

A copy of the order of the Hon'ble Tribunal dated 24.5.2002 is Annexed as Annexure P/1.

3. That the orders dated 24.5.2002 in OA No. 2 of 2001 of the Hon'ble Tribunal was despatched by the office of the Hon'ble Tribunal on 30.5.2002 and the petitioner received the same on June 2002. It is expected that the respondents/opposite parties received it on about that time. The Petitioner also submitted a copy of the Hon'ble Tribunal's judgement and orders dated 24.5.2002 in OA No.2 of 2001 to the

Rakesh Ch. Danda

Contd...P/4.

Divisional Railway Manager(P), N.F. Railway, Lumding
(Opposite Party No. 2) vide his application dated
29.8.2002 which was received on 3.9.2002.

A copy of the Petitioner's letter dated
29.8.2002 is annexed as Annexure P/2.

4. That although more than seven months have passed from the date of issue of the order from the office of the Hon'ble Tribunal and more than four months have passed from the date of receipt of the copy of orders of the Tribunal through the petitioner the opposite parties have not paid the overtime allowance to the petitioner.

5. That the petitioner is retiring from service after attaining the age of superannuation on 28.2.2003

6. That the Opposite Parties/Respondents neglected to implement the Hon'ble Tribunal's orders that the petitioner's over time allowance is to be paid within a period of three months from the date of receipt of the order.

7. That the petitioner begs to bring the fact of neglect and wilful disregard the orders and direction of the Hon'ble Tribunal by the opposite parties/respondents and further begs to state that the Hon'ble Tribunal may be pleased to invoke its power against such wilful dis-obedience of the Hon'ble Tribunal's orders dated 24.5.2002 by the opposite parties/Respondents and call for the records and to direct the opposite parties/respondents for immediate payment of the over time allowance as directed by the

Rakesh Ch. Danda

Contd ...P/5.

Hon'ble Tribunal in its judgement and orders dated 24.5.2002 in OA No. 2 of 2001.

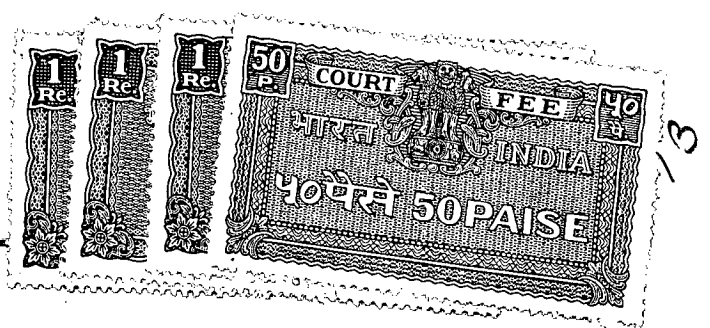
Under the circumstances stated above, the petitioner prays that the Hon'ble Tribunal may be pleased to invoke its power and take appropriate action against the opposite parties/respondents for willful disregard of the judgement and orders dated 24.5.2002 passed by the Hon'ble Tribunal in OA No; 2 of 2001 and the Hon'ble Tribunal may further be pleased to call for the records and direct the opposite parties/respondents for immediate implementation of the directions issued by the Hon'ble Tribunal in its judgement and orders dated 24.5.2002 in OA No. 2 of 2001.

And for this act of kindness the petitioner as duty bound shall ever pray.

AFFIDAVIT

Contd...P/6.

Rakesh. D. Chandra



A F F I D A V I T

I, shri Rakesh Chandra Chanda, son of late R.C.Chanda, aged about 60 years, resident of qrs No. T/30/B, Upper Babu Patty, Lunding, Distt, Nogaon, Assam, Pin-782447, do hereby solemnly affirm that I am the applicant in OA No. 2 of 2001 and is therefore acquainted with the facts and circumstances of the case.

That the statements made in paragraphs 1 to 5 of this petition are true to my knowledge which I believe to be true and the rest are my humble submission before the Hon'ble Tribunal.

And I sign this affidavit on this the 16th day of ~~February~~ 2003 at Guwahati.

Rakesh C. Chanda
(Rakesh Chandra Chanda)
Signature of the deponent.

Identified by

R. Dutta
(R. Dutta) 16/2/2003
Advocate.

Solemnly affirmed and declared before me by the deponent who is identified by shri R. Dutta, Advocate on this 16th day of ~~February~~ 2003 at Guwahati.

Krishnendu Paul
Advocate

.....

Rakesh C. Chanda.

- 7 -

Assume - A/1
14

CENTRAL ADMINISTRATIVE TRIBUNAL, GUWAHATI BENCH.

Original Application No.2 of 2001.

Date of Order : This the 24th Day of May, 2002.

THE HON'BLE MR JUSTICE D. N. CHOWDHURY, VICE CHAIRMAN.

Shri Rakesh Chandra Chanda
S/o Late Rajendra Chandra Chanda
Resident of Railway Qrs. No.T/30/B
Upper Babu Patty, Lumding
P.O:- Lumding, Dist:-Nagaon
Assam, PIN:- 782 447.

. . . Applicant.

By Advocate Mr.R.Dutta.

- Versus -

1. The Union of India
Represented through the General Manager
N.F.Railway, Maligaon
Guwahati - 781 011.
2. The Divisional Railway Manager
N.F.Railway, Lumding
P.O:-Lumding, Dist:-Nagaon
Assam, Pin:-782 447.
3. The Divisional Railway Manager(P)
N.F.Railway, Lumding, P.O:-Lumding
Dist:-Nagaon, Assam.
Pin :- 782 447.
4. The Chief Travelling Ticket Inspector
N.F.Railway, Lumding, P.O:- Lumding.
Dist:-Nagaon, Assam.
Pin:-782 447.

. . . Respondents.

By Mr. J.L.Sarkar, Rly.Standing Counsel.

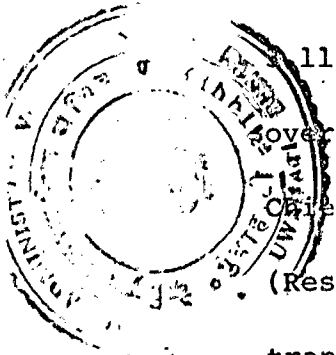
O R D E R

CHOWDHURY J.(V.C.):

The issue relates to granting of Overtime Allowance to Chief Travelling Ticket Inspector. - II, a Group - C staff.

1. The applicant, at the relevant time, was working at Lumding as Chief Travelling Ticket

Inspector-II (CITI-II) under the Chief Travelling Ticket Inspector(CITI), N.F.Railway, Lumding. The applicant pleaded that he was a continuous worker and the roster duty of a continuous worker is 48 hours and the statutory limit to which a continuous worker can be put to work is 54 hours in a week. Whenever a Continuous worker is required to work beyond the roster duty hours in a week, he became entitled to get overtime allowance at the rate of one and half time the normal rate for hours for hours exceeding the roster duty hours upto the statutory duty hours. The worker becomes entitled to overtime allowance at double of the normal rate for period of extra duty beyond the statutory duty hours. According to the applicant, he performed extra duty hours for the period from 11.6.95 to 24.6.95, 13.8.95 to 7.10.95, 5.11.95 to 2.12.95, 3.12.95 to 30.12.95, 31.12.95 to 10.2.96, 7.7.96 to 3.8.96, 4.8.96 to 31.8.96, 8.9.96 to 5.10.96, 6.10.96 to 19.10.96, 11.96 to 1.2.97, 2.2.97 to 1.3.97 and prepared the overtime journal and submitted to the Office of the Chief Travelling Ticket Inspector, N.F.Railway, Lumding (Respondent No.4) for verification and onward transmission to the Divisional Railway Manager (P), N.F.Railway, Lumding. After certifying the journals the Chief Travelling Ticket Inspector submitted the same to the office of the Divisional Railway Manager (P) for further action.



W

*Atk M
L Dills
N. Datta. Technical
General Superintendent*

2. The applicant submitted a number of representations to the respondent Nos. 3 & 4 and after a spate of representations the applicant received a copy of the letter written by the respondent No.3 to the respondent No.4 with a copy to the applicant, under No.EB/177-Compu dated 30.11.99, from which the applicant came to know that the overtime voucher of the applicant and another of his colleague were returned by the respondent No.3 to the respondent No.4 on 7.4.97 and 17.4.97 for some clarification, but the respondent No.4 only returned the overtime vouchers that were returned on 17.4.97 and those returned by respondent No.3 to respondent No.4, and requested to send back these overtime vouchers for making early payment. The applicant came to know that all the overtime vouchers of the applicant were resubmitted to the respondent No.3. Finding no other alternative, the applicant finally moved this Tribunal praying for a direction on the respondents for payment of overtime allowance. The said was numbered and registered as O.A.3/2000. By order dated 4.2.2000 the Tribunal directed the authority to dispose the representations of the applicant. on long last by the impugned order dated 13.10.2000 the respondent No.3 rejected the representations of the applicant. The full text of the impugned order No.EB/177/Compu dated 13.10.2000 is reproduced below :

" Please note that your claim for payment of arrear OTA was examined carefully, but could not be paid for payment dtd.27.7.84 at para of the

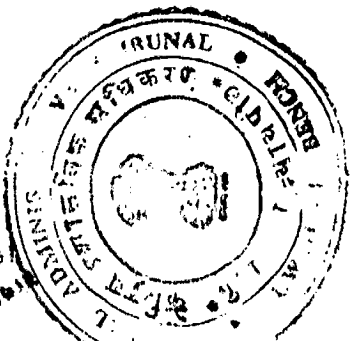
said letter, it was stipulated that the question of payment of OTA to TTEs should not arise and if any overtime paid to them should be recovered.

Hence your claim for OTA is not teneable. This letter is in compliance with the Hon'ble CAT/GHY's order under reference."

The aforementioned order is assailed before this Tribunal as unlawful, illegal and arbitrary. The applicant pleaded that overtime allowance that was claimed by the applicant for the period from 17.2.91 to 3.10.92 was also not paid by the respondents. The applicant moved this Tribunal by way of O.A.48/98. The respondents contested the O.A. and submitted its written statement. In the written statement the respondents referred to the note No.AGM/EC/-CON/34 dated 27.7.84 from the Additional General Manager/Maligaon. The said note was referred at para 4.15 of the application which reads as follows :

" That with regard to the statements made in paragraph 4.32 of the application, the answering respondents deny the contentions made by the applicant in this regard. As per Additional General Manager, Maligaon's note No.AGM/EC/EXP-CON/34 dated 27.7.84, the question of payment of OTA to TTEs should not arise. Any overtime paid to TTEs should be recovered. . . . "

The said plea was, however, not accepted by the Tribunal and by judgment and order dated 17.9.97 in O.A.48/96 respondents were directed to allow the claim of overtime allowance to the applicant on scrutiny of factual and arithmetical correctness of the claim.



3. Railway authority submitted its written statement and pleaded that the ticket checking staffs are classified as continuous worker, but they are not entitled to overtime allowance in terms of ADGM/EC/MLG's circular No.AGM/EC/Exp./Con/34 dated 27.7.84. Head TC/TTE in the scale of Rs.5000-8000/- is treated as supervisor and conductor also carry the same scale. Automatically conductor being the in-charge of ticket checking team of the train is supervisor and he is not entitled to OTA. The applicant previously worked as conductor, now CTTI/II and for both the case he is supervisor and hence is not entitled to OTA. In the written statement the respondents also pleaded that ticket checking staff was required to perform their duty as per Link Diagram prescribed for them. They never performed duty as per Duty Roster. Link Diagram means as per train and trip basis. The ticket checking staff who remained absent from his Head Quarter in line for more than 20 days average in a month they are entitled to get Consolidated Travelling Allowance (CTA). The applicant was paid CTA for working as per Link Diagram. Hence, question of payment of OTA in addition to CTA already paid as extra remuneration duties in link train does not arise.

4. I have heard Mr.R.Dutta, learned counsel for the applicant at length and also learned standing counsel for the N.F.Railway. The limitation of hours is

A 11/11/85
R. Dutta (Counsel)
Surat, Gujarat 395 001

prescribed by Statute, more particularly in Section 132 of the Railways Act, 1989. The full text of the provision of Section 132 is reproduced below :

"Limitation of hours of work ;

(1) A railway servant whose employment is essentially intermittent shall not be employed for more than seventy five hours in any week.

(2) A railway servant whose employment is continuous shall not be employed for more than fifty four hours a week on an average in a two-weekly period of fourteen days.

(3) A railway servant whose employment is intensive shall not be employed for more than forty-five hours a week on an average in a two-weekly period of fourteen days.

(4) Subject to such rules as may be prescribed, temporary exemptions of railway servants from the provisions of sub-section (1) or sub-section (2) or sub-section (3) may be made by the prescribed authority if it is of opinion that such temporary exemptions are necessary to avoid serious interference with the ordinary working of the railway or in cases of accident, actual or threatened, or when urgent work is required to be done to the railway or to rolling stock or in any emergency which could not have been foreseen or prevented, or in other cases of exceptional pressure of work:

Provided that where such exemption results in the increase of hours of employment of a railway servant referred to in any of the sub-sections, he shall be paid overtime at not less than two times his ordinary rate of pay for the excess hours of work."

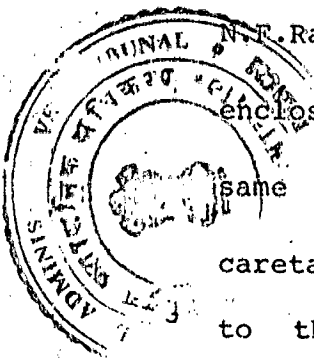
From the provision of the Statute also it is made



ALL
RTOH
K. Datta (12/04/21)
Mallikarjun, Gwalior-474011

clear that exemption results in the increase of hours of employment of a railway servant referred to in any of the sub-sections, he should be paid overtime. The standing counsel for the Railway again brought my notice to the Note No.AGM/EC/Exp.Con/34 dated 27.7.84 issued by the Additional General Manager/E.C., Maligaon on the subject Incidence of Over Time. According to the learned Standing Counsel for the Railway, the TTEs are not entitled to Over Time allowance and for that purpose instructions were issued vide ACPO's D.O.No.E/123/22(ADJ)/MISC dt.14.2.84. By the said communication it was ordered for recovery of the over time made, if any and on the otherhand it prescribed for providing suitable rest rooms at originating stations for TTEs, to cope with late running of trains. The said circular was also referred and relied by the Railway authority in O.A.48 of 96. The Tribunal acting on the certificate issued by the Station Superintendent, OPT, N.E.Railway, Lumding submitted by the applicant enclosing with rejoinder on 12.3.97 referred to the same wherein ^{it} was certified that due to shortage of caretaker, lilen & utensils no rest room was provided to the TTE's since 1990. The Tribunal in the aforementioned O.A. did not accept the said plea of the respondents denying its liability. The respondents referred and pleaded to the circular dated 27.7.84 issued by the Additional General Manager/EC. The

ALWAYS
12.10.16
R. Datta (Adm. Secy)
Muzgaon, Guwahati-781005



Tribunal, however, granted over time allowance to the applicant rejecting the plea of the respondents. A plea which was turned down by the Tribunal in a case between the same parties and conclusively deciding the issue cannot now be re-opened by the respondents, more so, in view of the Statutory provisions. The denial of the over time allowance in the case is therefore not sustainable. The impugned order dated 13.10.2000 is accordingly set aside and the respondents are directed for taking necessary step for payment of over time allowance to the applicant for the period from 11.6.95 to 24.6.95, 13.8.95 to 7.10.95, 5.11.95 to 2.12.95, 3.12.95 to 30.12.95, 31.12.95 to 10.2.96, 11.7.96 to 3.8.96 to 4.8.96 to 31.8.96, 8.9.96 to 5.10.96, 6.10.96 to 19.10.96, 3.11.96 to 1.2.97 and 2.2.97 to 1.3.97 that are pending before the respondent No.3. The respondents are accordingly directed to make the payment of the said over time allowance within a period of three months from the receipt of the order and after scrutiny and verification of the claim.

The application is allowed to the extent indicated above.

There shall, however, be no order as to

TRUE COPY

Sd/ VICE CHAIRMAN

30/9/02
Action Officer (3)

अध्यक्ष न्यायाधीश (न्यायिक शाखा)
National Administrative Tribunal

अध्यक्ष न्यायाधीश (न्यायिक शाखा)
National Administrative Tribunal

- 15 -

Annexure A/2
27

To The DRM (P) LMG.

Subj: Judgment Dt. 24.05.02, on ^{O/A} ~~10/11~~ NO. 2 of 2001
before CAT/SHY.

Sir,
Please find here with the judgment copy as
stated above.

Please do needful at the earliest.

I remain Sir,

Dated, LMG

The 29.08.02.

DA/As above in (9)
Nine sheets.

yours faith fully,

Rakesh R. Thakur.

CTIV/11/LMG

02/9/02
प्र. मंडल रेल प्रबंधक (का. 1)
श्री. सी. रेल्वे, लायडिंग
for Divl Rly. Manager (P)
D. F. Rly. Lyding

Atkash
R. Thakur

10/11/02
10/11/02

16 23

D R A F T C H A R G E

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH :: GUWAHATI.

C.P No. of 2003.

Shri R.C.Chanda : Petitioner

- Vs -

Shri A.K.Malhotra and Others: Opposite Parties /
Respondents.

The Central Administrative Tribunal Guwahati
Bench, Guwahati hereby charges you as under:-

That, during June 2002 to 20th January 2003 you have violated and disregarded the direction of the Hon'ble Central Administrative Tribunal, Guwahati bench, Guwahati's passed in orders dated 24.5.2002 in O.A No. 2 of 2001 in which were directed to take necessary steps for payment of overtime allowance to Shri R.C.Chanda, CTTI/II N.F.Railway, Lunding for the period between June 95 to 1.3.97, that are pending before the Divisional Railway Manager(P), N.F.Railway, Lunding, within a period of 3 months from the date of receipt of the order. But you have neglected to implement the order during the period of 3 months or even thereafter. By this act of willful disregard of the Hon'ble Tribunal's orders you have committed contempt of the Hon'ble Tribunal punishable under section 12 of the Contempt of Courts Act 1971 within our cognisance.

You are hereby directed to be tried by this
Tribunal for the aforesaid charge.

.....

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL :: GUWAHATI BENCH.

GUWAHATI.

C.P.No. 14/03

In

OA No.2/2001

R.C.Chanda - - - - - Petitioner.

- VS -

Union of India & others. - - - - Respondents.

In the matter of

Show Cause reply filed by Contemner No.1
in the above noted Contempt petition.

1. That the Contemner No.1 has received the copy of the Contempt Petition filed by the petitioner and has gone through the same. Save and except the statement, which are not admitted herein below, rests may be treated as total denial. The statements, which are not borne out at records, are also denied and the Petitioner is put to the strictest proof thereof.

2. That with regard to the statement made in Para 1, 2 & 3 of the Contempt Petition, the Contemner No.1 begs to state that the OA No.2/01 preferred by the Petitioner was allowed by the Hon'ble Tribunal vide judgment and order dt.24-05-2002. The concerned authority on receipt of the copy of the judgment and after taking the legal opinion in the matter preferred Writ petition bearing No.W.P.(C) 8321/02 before the Hon'ble High Court. The aforesaid Writ Petition was filed on 17-12-2002 and the matter is now fixed for final disposal in the month of August, 2003.

3. That with regard to the statement made in Para 4 & 5 of the Contempt Petition the contemner No.1 begs to state that he has got the highest regard to the judgment passed by the Hon'ble Tribunal but since the matter is pending final disposal before the Hon'ble High Court there has been little delay in settling the matter. It is stated that in the event the petitioner is entitled for such allowance it would be settled with him even after his retirement.

Contd. to P/No.2

5 AUG 2003
GUWAHATI BENCH

Filed by
the Contemner
through
24
मंडल रेल प्रबन्धक
लॉकर पूर्व सीमांत रेलवे
लामडिंग
DIV. RLY. MANAGER
N. F. RAILWAY
JUMDING
5/8/03

(Page No.2)

25
मंडल रेल प्रबन्धक
वर्तमान सूचक सीमांत रेखा
कामडिंग
DIV. RLY. MANAGER
M. F. P. W. Y
LUMDING

4. That with regard to the statement made in Para 6 & 7 of the Contempt Petition the Contemner No.1, while reiterating and reaffirming the statement made above begs to state that he has got the highest regard to the directions passed by the Hon'ble Tribunal and he never attempted nor he showed negligence, disobedience etc. to the said directions.

Contd. to P/No.3

AFFIDAVIT.

I, Shri A.K.Malhotra, son of Late Sh P. C. Malhotra

aged about 52 years at present working as Divisional Railway Manager, N.F.Railway, Lumding do hereby solemnly affirm that :

1. I am the Contemner No.1 in the Contempt Petition No.14/2003 and is therefore acquainted with the facts and circumstances of the case.
2. That the statements made in this affidavit and in the accompanying petition in paragraphs 1, 3 & 4 are true to my knowledge and those made in paragraphs 9 are matter records which I believe to be true and the rests are my humble submission before the Hon'ble Tribunal and I have not suppressed any material facts of the case.

And I sign this affidavit on this the 5th day of August 2003

Identified by
[Signature]
Advocate

एडल रेल प्रबन्धक
उत्तरी पूर्वी रेलवे क्षेत्र
लुमदि
DIVISIONAL MANAGER
N.F. RAILWAY
LUMDING

Deponent.

[Signature]

Solemnly affirmed and declared by the deponent, who is identified by Siddhantha Sarma Advocate on this the 5th day of August 2003

[Signature]
Advocate
5/8/03

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL :: GUWAHATI BENCH.
GUWAHATI.

C.P.No. 14/03

In

OA No.2/2001

R.C.Chanda - - - - - Petitioner.

- VS -

Union of India & others. - - - - Respondents.

In the matter of

Show Cause reply filed by Contemner No.2
in the above noted Contempt petition.

1. That the Contemner No.2 has received the copy of the Contempt Petition filed by the petitioner and has gone through the same. Save and except the statement, which are not admitted herein below, rests may be treated as total denial. The statements, which are not borne out at records, are also denied and the Petitioner is put to the strictest proof thereof.

2. That with regard to the statement made in Para 1, 2 & 3 of the Contempt Petition, the Contemner No.2 begs to state that the OA No.2/01 preferred by the Petitioner was allowed by the Hon'ble Tribunal vide judgment and order dt.24-05-2002. The concerned authority on receipt of the copy of the judgment and after taking the legal opinion in the matter preferred Writ petition bearing No.W.P.(C) 8321/02 before the Hon'ble High Court. The aforesaid Writ Petition was filed on 17-12-2002 and the matter is now fixed for final disposal in the month of August, 2003.

3. That with regard to the statement made in Para 4 & 5 of the Contempt Petition the contemner No.2 begs to state that he has got the highest regard to the judgment passed by the Hon'ble Tribunal but since the matter is pending final disposal before the Hon'ble High Court there has been little delay in settling the matter. It is stated that in the event the petitioner is entitled for such allowance it would be settled with him even after his retirement.

Contd. to P/No.2

Filed by
S. Divl. Person. Officer the Contemner No.2
through
N. F. Rly., I.
A. K. S. 10/03

(Page No.2)

A. K. Kipollu

28

वरिष्ठ कर्मिक अधिकारी
Sr. Divl. Personnel Offr.
ज. सी. रेलवे, लाहौर
N. F. Rly., Lahore

4. That with regard to the statement made in Para 6 & 7 of the Contempt Petition the Contemner No.2, while reiterating and reaffirming the statement made above begs to state that he has got the highest regard to the directions passed by the Hon'ble Tribunal and he never attempted nor he showed negligence, disobedience etc. to the said directions.

Contd. to P/No.3

(Page No.3)

AFFIDAVIT.

A. Kispotta

I, Shri A. Kispotta, son of Late Andreas Kispotta aged about 54 years, at present working as Senior Divisional Personnel Officer, N.F. Railway, Lunding do hereby solemnly affirm that :

1. I am the Contemner No.2 in the Contempt Petition No.14/2003 and therefore acquainted with the facts and circumstances of the case.
2. That the statements made in this affidavit and in the accompanying petition in paragraphs 1, 3, & 4 are true to my knowledge and those made in paragraphs 2 are matter borne on records which I believe to be true and the rests are my humble submission before the Hon'ble Tribunal and I have not suppressed any material facts of the case.

And I sign this affidavit on this the 5th day of August, 2003

Identified by:



Advocate

वरिष्ठ कर्मिक अधिकारी A. Kispotta
S. Divl. Personnel Officer Deponent.

पु. सी. रेलवे, लाहौर

N. B. Rly., La

Solemnly affirmed and declared
by the deponent, who is identified
by Siddhartha Saxena
Advocate on this the 5th
day of August 2003


Advocate
5/8/03