

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No. 355 of 1996

Jabalpur, this the 16th day of October, 2003

Hon'ble Shri J.K. Kaushik, Judicial Member
Hon'ble Shri Anand Kumar Bhatt, Administrative Member

1. Depot Kamgar Union,
C.O.D., through its
Secretary, J.K. Bhattacharya,
S/o. Shri P.C. Bhattacharya,
C.O.D., Jabalpur.
2. Jag Prasad, S/o. Shri Mindai,
Fire Supervisor, Central
Ordnance Depot, Jabalpur.
3. B.R. Chourasiya, S/o. Late Shri
Ganesh Prasad, Telephone Operator,
Central Ordnance Depot, Jabalpur.

... Applicants

(By Advocate - Shri Arvind Shrivastava)

V e r s u s

1. The Union of India,
Through its Secretary,
Ministry of Defence,
New Delhi.
2. The Director General of Ordnance,
Master General of Ordnance Branch,
Army Head Quarter,
New Delhi - 100 011.
3. The Officer-in-charge,
A.O.C. (Records),
Sikandarabad (Andhra Pradesh).
4. The Commandant, Central Ordnance
Depot, Jabalpur.

... Respondents

(By Advocate - Shri B.da.Silva)

O R D E R (Oral)

By J.K. Kaushik, Judicial Member -

The Depot Kamgar Union and two others have filed this
Original Application with the following prayers :

- "(i) direct the respondents to give the benefit of
Over Time Allowance to the applicants and the
similarly situated persons for their services
rendered more than 45½ hours in a week as per
the decision of the Ministry of Defence on the
basis of judgment of the Hon'ble Calcutta High
Court;



- (ii) quash the order dt. 12th May, 1993 which is Annexure A-3 to this application;
- (iii) direct the respondents to calculate the wages and pay the arrears of the amount of Over Time Allowance to the applicants;
- (iv) direct the respondents to give the benefit and to extend the same to the applicants also which is being done by issuing the circular dt. 5th May, 1989,"

2. The controversy involved in this case is very short. As far as the factual aspects are concerned there is no dispute. All the applicants are working on various posts and their posts fall in the category of non-industrial workman. A short question involved in this case is that certain overtime allowance is paid to the workmen employed in the Factory as per the Factories Act, 1956 and as to whether the non-industrial workers would also be entitled for the same. The controversy has already been set at rest. ^{very} The departmental orders to that effect has already been given vide Ministry of Defence memorandum dated 5th November, 1973 (Annexure A-1). On the same lines the case was taken up before this Bench of the Tribunal which was turned down on the pretext that the applicant therein did not work for extra hours. After the matter was taken up before the Hon'ble High Court of Madhya Pradesh, the matter thereafter was remanded for adjudication in the matters holding that the judgment of the Calcutta High Court was applicable and the same could not be ignored by the Tribunal. Thus the inescapable conclusion is that the applicants should be entitled for the overtime allowances in accordance with the instructions issued by the very Department itself. However the same shall be paid only to the non-industrial workmans if they fulfil the other conditions.

3. In the instant case the complete details regarding their working has not been furnished and therefore we are

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4. In this view of the matter the Original Application is disposed of by the following orders :

The Original Application is partly allowed. The applicants are entitled to the over time allowances in accordance with the order dated 5th November, 1973 (Annexure A-1). The applicants shall submit their claim alongwith the proof of their working to the competent authority and if they are otherwise eligible in accordance with the instructions they shall be paid the over-time allowances accordingly. This exercise shall be completed within a period of four months from the date of receipt of copy of this order. The applicants shall submit their claims positively within a period of one month from the date of receipt of copy of this order. However in the facts and circumstances of this case the parties are directed to bear their own costs.

(Anand Kumar Bhatt)
Administrative Member

J.K. Kaushik
(J.K. Kaushik)
Judicial Member

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Travel.
23/10/23

Imaginary
23/10/23