

RESERVED

**CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH ALLAHABAD**

Dated: This the 07th day of March 2018.

PRESENT:

HON'BLE DR. MURTAZA ALI, MEMBER – J

Original Application No. 1600 of 2011

K.K Anand, a/a 61 years, S/o Late Shri Ram Lubhaya Ex- Head
Booking Clerk/N.C.R./Kanpur R/o H-1/22, Krishnapuram,
Kanpur, 208007.

. . . Applicant

By Adv: Shri R.K. Dixit

V E R S U S

1. Union of India through General Manager, North Central Railway, Headquarter Office, Subedarganj, Allahabad.
2. Divisional Railway Manager, North Central Railway, DRM's Office, N.Y Marg, Allahabad.
3. Senior Divisional Commercial Manager, North Central Railway, Allahabad.
4. Station Superintendent, N.C. Railway, Achalda.
5. Labour Enforcement Officer (C), Kanpur.

. . . Respondents

By Adv: Shri P.N Rai

ORDER

The applicant has filed this OA for quashing the impugned order dated 5.12.2011 (Annexure A-1) by which the representation of applicant for payment of overtime allowance has been rejected by the respondent NO.3.

2. Brief facts of the case are that the applicant was initially appointed on the post of Booking Clerk on 3.8.1981 and he joined at Achalda station as Head Booking Clerk on 26.2.2005. It is stated that he was working on the said post continuously for 12 hours every day in a week and he had also made several complaints to this effect but the respondents did not pay any heed. It has been alleged that the applicant was neither given rest nor he was paid overtime allowance as per rules. He has already retired on 30.6.2011 after attaining the age of superannuation.

3. In reply, the respondents have denied the contentions of applicant that he had worked for 12 hours in a day and stated that there was only 16 hours work at Achhalda Station and accordingly 2 persons were posted there. It is further stated that the employees from Etawah and nearby stations were called for giving rests to the commercial persons posted at Achhalda Station. Thus the applicant was not entitled for overtime allowance as he had not worked beyond 8 hours per day.

4. In the rejoinder, the applicant reiterated the averments made in the OA and further stated that the applicant had continuously worked for 12 hours per day without rest under

duress conditions and therefore he is entitled for overtime allowance.

5. Heard Shri R.K. Dixit counsel for the applicant and Shri P.N Rai counsel for the respondents and perused the record.

6. From the perusal of record, it appears that the applicant had earlier filed OA NO. 1001 of 2011 seeking overtime allowance and the said OA was disposed of at the admission stage vide order dated 18.08.2011, directing the applicant to first represent his department for his claim and thereafter he should approach to the Tribunal if his grievance is not redressed. The applicant preferred representation dated 26.8.2011 to the respondent No.2 and raised his grievances for not making duty roster of commercial employees at Achhalda station and for non payment of overtime allowance while he performed duty for 12 hours per day without rest and he was required to be present at the station continuously every day of the week. The said representation of the applicant was rejected by the respondent No. 3 vide impugned order dated 5.12.2011 stating therein that only 5 Passenger Trains namely 1/2 S.P.M, 1/2 E.K., 219/220, 3007/3008 and 3039/3040 were scheduled to stop at Achhalda station and considering their timing of arrival and

departure, only 2 commercial clerks were deputed. It is further stated that train No. 2 S.P.M, 1 E.K., 220 and 3007 was scheduled to arrive between 6.30 to 10.30 (4 hours), Train No. 3008, 219 and 2 E.K. between 16 to 20 (4 hours) and Train No. 1 S.P.M, 3039 and 3040 between 20 to 4 (8 hours) at Achhalda station. In this way, it is the contention of respondents that there were 16 hours work in a day at Achhalda station and accordingly 2 posts of commercial clerks were sanctioned. It has also been contended that there was no justification for continuously working of 12 hours and overtime of 4 hours per day.

7. Learned counsel for the applicant has drawn my attention to the complaints made by him between 19.7.2007 and 29.6.2009 (Annexure A-2) which shows that the applicant was regularly complaining that no duty roster was made in respect of his duty as Booking Clerk and he was forced to perform 12 hours duty per day and he was also not given due rest. The letter dated 18.2.2008 (Annexure A-3) also shows that Station Master Achhalda had written to Senior Divisional Commercial Manager Allahabad that no roster was available for the booking employees and they were forced to perform duty for 12 hours daily. Reply dated 21.10.2006 (Annexure A-4) received under R.T.I Act reveals that there were only 2

posts of Commercial employees at Achhalda station and Booking Clerks were liable to be performed duty according to the roster. On perusal of inspection note dated 6.6.2009 (Annexure A-5), it appears that Shri P.K Bidua, Labour Enforcement Officer (Central) Kanpur had inspected the establishment of Achhalda station and found that no duty roster was available. He also pointed out several irregularities regarding working hours of commercial employees. From the perusal of letter dated 23.9.2010 (Annexure A-7) issued by the Station Master Achhalda to Head Booking Clerk and Booking Clerk, it is evident that that he directed the Booking Clerks to turn up their duties after 12 hours and they should not work for 24 hours in a day. My attention has also been drawn to other complaints (Annexure A-9) noted by the applicant in the complaint register of the department. In his first complaint dated 31.7.2009, it was written that no duty register was available at the station and he used to work for 12 hours, therefore, he was entitled for overtime. In his complaint dated 17.10.2009, the applicant again stated in the complaint book that he was being forced to perform duty for 12 hours per day and it was also not intimated after how much time he would be entitled for rest. In the complaint dated 17.11.2010, he stated that he was being forced to perform duty for extra hours therefore he

was entitled to get overtime. In the complaint dated 5.4.2011, it was also reiterated that both the Booking Clerks posted at Achhalda were working for 12 hours per day and they were also not being provided roster and no date for their rest had been prescribed. He had also prayed for overtime.

8. Learned counsel for the applicant has also produced the extract of Railway Service Rules written by Mahendra Nath Tiwari, which shows that Clerks are to be treated as continuous employees and their standard working hours in a week are 48 hours. Considering the consistent notes of applicant in the complaint register regarding performing duty for 12 hours, inspection note of Labour Enforcement Officer and the letter of Station Master, I am of the considered view that the applicant had worked for 12 hours per day during his posting at Achalda station and he has wrongly been denied overtime allowance admissible to him as per rules. The contentions of respondents that the work of Booking Clerk was taken from the applicant in two innings, cannot be accepted as he comes under the category of continuous employee and as he was retained for more than 8 hours in a day, he is entitled to the admissible overtime allowance. Thus, the OA is liable to be allowed and the

applicant is entitled to overtime allowance for the period he actually worked beyond 8 hours in a day.

9. Accordingly, OA is allowed and the impugned order dated 5.12.2011 is set aside and quashed. The respondents are directed to pay the admissible overtime allowance to the applicant within a period of 3 months after calculating the total period of overtime on the basis of actual working days attendance register treating the applicant had worked 4 hours extra on each working day during his posting at Achalda Station. If the payment of overtime allowance is not made within 3 months from the date of receipt of certified copy of this order, the applicant shall also be entitled for simple interest @ 8% per annum from the date of order till actual payment is made. There is no order as to costs.

Member (J)

Manish/-

APPENDIX

Applicant's Annexures in O.A

Sl. No.	Particulars	Dates	Annex.
1.	Copy of the impugned order passed by respondent No.3.	5.12.2011	A-1
2.	Copy of the complaints	19.7.2007 To 29.6.2008	A-2
3.	Copy of the letter	21.10.2008	A-4
4.	Copy of the report.	26.6.2009	A-5
5.	Copy of the letter.	31.8.2009	A-6
6.	Copy of the letter	23.9.2010	A-7
7.	Copy of the letter	15.10.2009	A-8
8.	Copy of the complaints	31.9.2009 to 5.4.2011	A-9
9.	Copy of the service certificate of the applicant		A-10
10.	Copy of order/direction passed in OA No. 1101 of 2011	18.8.2011	A-11
11	Copy of the representation	26.8.2011	A-12.