

Reserved

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH
CIRCUIT SITTING : BILASPUR

Original Application No.203/00073/2017

Jabalpur, this Wednesday, the 12th day of December, 2018

**HON'BLE MR. NAVIN TANDON, ADMINISTRATIVE MEMBER
HON'BLE MR. RAMESH SINGH THAKUR, JUDICIAL MEMBER**

G. Hussain, S/o Late A. Salam, 66 years,
Retired Master Grade Driver, G.M. Office, S.E.C. Railway,
R/o : Ramanuj Tiwari, Kitabwala Gali,
Masanganj, Bilaspur – 495001 **-Applicant**

(By Advocate – Shri B.P. Rao)

V e r s u s

1. Union of India through : The General Manager, S.E.C. Railway, Bilaspur Zone, Headquarters' Office, Bilaspur – 495004 (CG).

2. The Chief Personnel Officer, SEC Railway,
Bilaspur Zone, Headquarter's Office,
Bilaspur – 495004 (CG)

- Respondents

(By Advocate – Shri Vivek Verma)

(Date of reserving order: 06.12.2018)

ORDER

By Navin Tandon, AM.

The applicant, who was working as Motor Vehicle Driver (for brevity ‘MVD’) under the respondent-railway, is aggrieved by denial of overtime allowance.

2. The applicant has submitted as under:-

2.1 From the date of his joining as MVD in the DRM's office, Bilaspur he was required to discharge 8 hours continuous duty, and beyond that period he was entitled for Over Time Allowance (for brevity 'OTA').

2.2 The respondents vide Office Memorandum dated 29.11.2004 changed the duty roster of the few Vehicles Drivers/Car Drivers from Continuous (8 hours duty) to Essentially Intermittent (10 hours duty).

2.3 This change of duty roster in respect of 14 MVDs was challenged by MVDs before Regional Labour Commissioner (C) Raipur, which by its order dated 07.08.2007 (Annexure A-2) set aside the said O.M. dated 29.11.2004. The Railways appealed before the Ministry of Railway, which upheld the earlier decision on 29.10.2010 (Annexure A-3).

2.4 Accordingly, Memorandum dated 04.03.2011 (Annexure A-4) was issued by the respondents communicating the decision of the competent authority that the change of classification of the MVDs attached to DRM, ADRM, Sr.DPO, Sr.DEE(G), Sr.DME, Sr.DEE(Op), Sr.DEN(Co), Sr.DEN/CIC, Sr.DEN (Central), Sr.DEN (East), DEN(Sett) and DSTE(M/W) BSP to Essentially Intermittent is withdrawn and they are to be treated as continuous

category. The staff concerned shall be eligible for OTA as per extant rules governing such classification.

2.5 In December 2006, he was posted in Zonal Office at Bilaspur as Master Grade MVD and thus from January 2007 till his retirement in August 2008 he worked in Zonal Office, Bilaspur.

2.6 He submitted his OTA bills for entire period as per Annexure A-4. However, he was paid OTA upto December,2006. His OTA bill from January 2007 to August 2008 for Rs.2,13,956/- was not paid to him.

2.7 Vide letter dated 14.05.2012 (Annexure A-5) he was informed that since duty roster of M.V.Driver posted at Zonal office is EI (Essential Intermittent) i.e. 10 hours duty, therefore, he is not entitled for OTA.

2.8 Aggrieved by the said order he filed Original Application No.901/2012 before this Tribunal praying for direction to the respondents to release OTA difference amount bills of the applicant for the period from January 2007 to August 2008. The said Original Application was disposed of vide order dated 12.05.2015 (Annexure A-7) by remitting the matter to the respondents to settle the issue with a speaking order. Accordingly, the respondents vide impugned order dated 08.01.2016 (Annexure

A-9) have passed a speaking order rejecting the claim of the applicant. Hence, this Original Application.

3. The applicant has sought for the following reliefs in this O.A:

“(8.1) That, the Hon’ble Tribunal be pleased to call for records of Applicant’s case from the possession of the Respondents for its kind perusal and to decide the grievance of the poor Applicant.

(8.2) That, the Hon’ble Tribunal be pleased to quash and set aside the Official Letter dated 8.1.2016 (Annexure A-9) in the interest of justice.

(8.3) That, the Hon’ble Tribunal be pleased to pass an order for payment of Difference of Overtime Allowance of the Applicant for the period from January 2007 to August 2008 at the earliest alongwith interests.

8.4 That, any other Order or Directions deem fit and proper may also be passed in the interest of justice.”

4. The respondents by filing their reply have made following submissions:-

4.1 The applicant while posted as MVD in DRM’s office Bilaspur filed an appeal on 18.08.2006, before the Regional Labour Commissioner (for brevity ‘RLC’), Raipur challenging the letter dated 29.11.2004 of Sr. Divisional Personnel Officer whereby the classification was changed from Continuous roster with 8 hours duty to Essentially Intermittent (EI) with 10 hours duty. The RLC set aside the change of said classification and the same was

subsequently also upheld in appeal. Accordingly, the classification of MVDs attached to DRM, ADRM, Sr.DPO, Sr.DEE(G), Sr.DME, Sr.DEE(Op), Sr.DEN(Co), Sr.DEN/CIC, Sr.DEN (Central), Sr.DEN (East), DEN(Sett) and DSTE(M/W) only of Bilaspur division of SEC Railway was changed from EI to continuous in the year 2011 vide order dated 04.03.2011 (Annexure A-4) . The change of classification from EI to continuous was done and applicable to MVD of Bilaspur division only and not for the MVDs working in Headquarters office.

4.2 The applicant had worked as MVD in Headquarters office from January 2007 to August,2008. Therefore, the OTA bill from January 2007 to August,2008 which he had submitted in Zonal office, Bilaspur on 08.04.2011 for Rs.2,13,956/- claiming himself to be in continuous roster had not been paid to the applicant.

4.3 The roster of EI in respect of MVDs of Bilaspur division only had been set aside by the RLC, Raipur. The roster of EI in respect of MVDs of Headquarters was neither challenged nor set aside.

4.4 The respondents have therefore submitted that this Original Application has no merit and, therefore, the same deserves to be dismissed with costs.

5. Heard the learned counsel of parties and carefully perused the pleadings of the respective parties and the documents annexed therewith.

6. It is an admitted fact that the applicant had worked as MVD in Headquarters Office from January 2007 to August 2008 where the Essentially Intermittent (E.I.) roster was applicable to MVDs. Therefore, the respondents have rightly denied him the claim of OTA amounting to Rs.2,13,956/- for the period from January 2007 to August 2008 claiming himself to be in continuous roster. The applicant has not challenged the roster of EI in respect of MVDs of Headquarters office. Therefore, he is not entitled for the relief sought for by him in this Original Application.

7. In the result, the Original Application is dismissed. No costs.

(Ramesh Singh Thakur)
Judicial Member

(Navin Tandon)
Administrative Member

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