

CENTRAL ADMINISTRATIVE TRIBUNAL  
CUTTACK BENCH, CUTTACK

O.A.No.678 of 2011

Cuttack this the 32rd day of May, 2018

CORAM:

THE HON'BLE DR.MRUTYUNJAY SARANGI, MEMBER(A)

Sankarsan Sahu, aged about 66 years, S/o. late Balakrushna Saho, Vill-Sadanandapur, PO-Gadarpusa, PS/Via-Gop, Dist-Puri, Retd. STM-1, under Station Superintendent E.Co.Rly, Talcher.

...Applicant

By the Advocate(s)-M/s.N.R.Routray

S.Mishra

T.Ku.Choudhury

-VERSUS-

Union of India represented through :

1. The General Manager, East Coast Railway, Rail Vihar, Chandrasekharapur, Bhubaneswar, Dist-Khurda.
2. Sr.Divisional Operating Manager, East Coast Railway, Khurda Road Division, At/PO-Jatni, Dist-Khurda.
3. Sr.Divisional Personnel Officer, East Coast Railway, Khurda Road Division, At/PO-Jatni, Dist-Khurda.
4. Station Superintendent, East Coast Railway, Talcher, At/PO-Talcher, Dist-Talcher.
5. Divisional Railway Manager, East Coast Railway, Khurda Road Division, At/O-Jatni, Dist-Khurda.

...Respondents

By the Advocate(s)-Ms.S.L.Pattnaik

ORDER

DR.MRUTYUNJAY SARANGI, MEMBER(A):

The applicant is a retired employee of East Coast Railways. When he was working as STM-II under the Station Superintendent, East Coast Railway, Charbatia, he was called upon to discharge duties on overtime basis due to shortage of

manpower. The applicant claims that from 26.1.1993 to 25.1.2002, he had performed overtime duties to the extent of 5586 hours for which the Railways have not paid him the dues to which he is entitled to. The applicant has enclosed copy of the Muster Roll for the period to support his claim. He had earlier approached this Tribunal in O.A.No.116 of 2010 which was disposed of by this Tribunal on 19.3.2010 with liberty to the applicant to make a representation enclosing the evidence to support his claim and the respondents were directed to consider the representation with reference to the records available with them and settle the matter within a period of 30 days of receipt of the representation. In pursuance of the order of this Tribunal, Senior Divisional Operating Manager, East Coast Railways, Khurda Road vide letter dated 29.4.2010 (Annexure-8) rejecting the representation of the applicant, which reads as follows:

“Sub: Implementation of Hon’ble CAT/Cuttack’s order dtd. 19.3.2010 in O.A.No.116/2010, Sri Sankarsan Sahu vs. UOI & Others:

In obedience to the Hon’ble CAT/Cuttack’s order dtd. 19.3.2010 in O.A.No.116/2010, your representation along with the evidence to support of the claim dtd. 6.4.2010 is examined in detail and the faction position is as under:

1. As per your representation, your claim from 26.1.1993 to 19.3.2010 is more than 08 to 17 years old. During this period you have not submitted any representation or appeal to your higher/competent authority for

payment of your overtime. The records from 26.1.1993 to 25.1.2001 for payment of overtime are not retained as per establishment rule.

2. You have submitted Xerox copies of muster roll without certification by station in-charge, Charbatia station.
3. Certified copy of the Over Time claimed register is not enclosed.
4. Copy of your representation to the higher authority regarding non-payment of your overtime allowance during your service period during retirement is not enclosed.
5. Copy of the staff grievance register regarding non-payment of your overtime allowance is not enclosed.
6. Copy of the duty roster is not enclosed. Hon'ble CAT/Cuttack has disposed of the original application with liberty to the applicant to make representation enclosing thereto the evidence in support of his claim that he had really performed duties beyond the hours fixed along with a copy of this order within a period of 15 days.

In the light of above, your representation has not merit for consideration”.

2. Aggrieved by this impugned letter, the applicant has filed the O.A. praying the for following reliefs.

- (i) To quash the impugned order dtd. 29.04.2010 under Annexure-A/8.
- (ii) To direct the Respondents to pay the OT dues as claimed under Annexure-A/4.

And pass any other order as this Hon'ble Tribunal deems fit and proper in the interest of justice.

3. The applicant has based his prayer on the ground that he had submitted his claim as early as in the year 1995. By the communication dated 7.3.1995(A/10) certain clarifications were asked by the Divisional Personnel Officer, Khurda Road from the Station Superintendent, Charbatia. However, no action was taken on the claim of the applicant who also submitted further representations. Due to inaction on the representations, he had approached this Tribunal in O.A.No.116 of 2010. This Tribunal had disposed of the O.A. with suitable directions to the respondents to consider his representation. The applicant also claims that the respondents have tried to wriggle out of their responsibilities by stating that records are not available. It is the contention of the applicant that in two earlier cases (i) Bhagaban Sethi and (ii) Mangulu Charan Khuntia, the respondents in compliance of the orders of this Tribunal in O.A.No.211 of 2009 and O.A.No.13 of 2010 had settled the claims by making payment of Rs.1,94,000/- and Rs.78,000/-, respectively.

4. The Respondents in their counter filed on 14.8.2012 have contested the claim of the applicant as time-barred and devoid of merit. They claim that the applicant has not produced any evidence of his rendering service on overtime and the Muster Roll and other documents submitted by him are without any authentication and signature or attestation by any officials. The Respondents have also enclosed Establishment Serial Number

90/99 dated 22.4.1999 to clarify that the documents relating to overtime allowances are retained only for three years or one year after the completion of audit whichever is later.

5. The applicant has filed a rejoinder on 2.1.2013 wherein he has reiterated his claim for overtime allowance. He claims that he had submitted his claim in time and is being deprived of overtime for 5586 hours of service unjustifiably and illegally by the Respondents.

6. The matter was heard on 3.4.2018. During the course of arguments, the respondents have annexed the judgments of the Hon'ble Supreme Court in **Union of India vs. Tarsem Singh & Ors. [(2008) 2 SCC (L7S) 765]** and **State of Madhya Pradesh & Ors. vs. Yogendra Shrivastava [(1011) 1 SCC (L&S) 251]** to emphasize that arrears cannot be granted for any period beyond three years prior to the date of Original Application. They have also cited the judgment in **G.C.Kanungo vs. Rourkela Steel Plant & Anr. [2012(1) ILR-CUT-1]** wherein the Hon'ble High Court of Orissa had ruled that the claims for payment were barred by limitation unless preferred in time.

7. I have heard the learned counsels from both the sides and carefully perused the documents submitted by them as well as the case laws cited by the respondents. It is indisputable that the applicant had submitted his claim in the year 1995 much later than when the first claim was due for the overtime service rendered for the year 1993. He has enclosed a document to

show that some queries were raised on his claim in the letter dated 7.3.1995(A/10). There is nothing to show how these queries from the Station Superintendent, Charbatia were met by the Divisional Personnel Officer-KUR. The respondents claim that the records pertaining to the overtime service rendered by the applicant are no longer available. On a specific direction made by this Tribunal to the learned counsel for the Respondents to give status of the records, she specifically stated that the records are no longer available nor any copy of the representation of the applicant. The Respondents are however silent on the letter dated 7.3.1995(A/10) and if any such file is available in the office. I take note of the claim made by the applicant that two similarly placed employees, viz., S/Shri Bhagaban Sethi and Mangulu Charan Khuntia have been granted overtime allowance to the extent of Rs.1,94,000 and Rs.78,000/- respectively, purportedly under similar circumstances as claimed by the applicant. The Respondents however, at Para-9 of the counter-reply have stated that the case of S/Shri Sethi and Khuntia have no similarity with the instant O.A. and both the cases are being examined by the administration and suitable action will be taken.

8. The Respondents have not satisfactorily distinguished the case of the present applicant from that of S/Shri Bhagaban Sethi and Mannngulu Charan Khuntia. If the two individuals have been granted reliefs under similar circumstances as claimed by

the applicant, no discrimination can be shown to the applicant in the present O.A. The copy of the Muster Rolls have to be examined by the Respondents along with the letter dated 7.3.1995 and if the applicant is entitled to overtime allowance even at this length of time, the respondents cannot deny that claim.

9. In view of the above, the Respondents are directed to reexamine the case of the applicant vis-à-vis the cases of S/Shri Bhagaban Sethi and Mangulu Charan Khuntia and consider granting relief to the applicant by following the similar procedure as has been followed in the cases of Shri Sethi and Shri Khuntia. This action should be completed within a period of three months from the date of receipt of this order.

10. With the aforesaid observation and direction, the O.A. is disposed of with no order as to costs.

(DR.MRUTYUNJAY SARANGI)  
MEMBER(A)

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