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**CENTRAL ADMINISTRATIVE TRIBUNAL,
ERNAKULAM BENCH**

Original Application No.180/00221/2016

Tuesday, this the 12th day of March, 2019

CORAM:

HON'BLE Mr.E.K.BHARAT BHUSHAN, ADMINISTRATIVE MEMBER

P.Anbucheziyan, aged 42 years
S/o.P.Periasamy
Sr.Technician/Railway Electrification/
Office of the Deputy Chief Electrical Engineer/Calicut
Permanent Address: No.3/207, Vellakkalpatti
Puthanampatti P.O, Musiri Taluk
Tiruchirapalli District, Pin : 621 007 ... Applicant

(by Advocate: Mr.T.C.G Swamy)

versus

1. Union of India represented by the
The General Manager, Southern Railway
Headquarters Office, Park Town P.O,
Chennai- 600 003
2. The Divisional Railway Manager
Southern Railway, Salem Division
Salem – 636 005
3. The Chief Project Manager
Railway Electrification/Indian Railways
Egmore, Chennai – 600 008
4. The Sr.Divisional Personnel Officer
Southern Railway, Palghat Division,
Palghat – 678 002

(By Advocate – Mrs.K.Girija)

This application having been heard on 6th March 2019, the Tribunal on 12.3.2019 delivered the following :

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O R D E R

Per : Mr.E.K.BHARAT BHUSHAN, ADMINISTRATIVE MEMBER

The Original Application No.180/00221 of 2016 is filed by Mr.P.Anbucbezhiyan, Senior Technician/Railway Electrification in Calicut against the order issued by 3rd respondent dated 07/08.07.2015 (Annexure A-1) regarding alleged payment of overtime allowance.

2. The brief facts of the case are that the applicant who was initially borne on the Palakkad Division of Southern Railway was later inducted into the cadre of Technician of the Traction Distribution Wing of the Electrical Department of Southern Railway, Salem Division. While he was working in the Palakkad Division, he had worked extra hours (over time) during the period from 1.1.2006 to 26.10.2006 in the pre-revised scale of pay. Applicant was sent on deputation while he was in Salem Division as Tower Wagon Driver in the Railway Electrification Wing of the Indian Railways and during this period, he had worked extra hours (over time) between 2008 and 31.03.2014. However, the overtime allowance was paid as per an alleged erroneous formula resulting in substantial reduction in the payment due to the applicant. Applicant is also aggrieved by the refusal on the part of the respondents to pay the overtime allowance for the period from 1.1.2006 to 26.10.2006 in accordance with 6th Central Pay Commission recommendations.

3. It is submitted that the applicant comes under 'continuous' classification and the OTA is to be calculated as per Rule 10 of Annexure A-

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2 Railway Servants (Hours of Work and Period of Rest) Rules, 2005.

Applicant averred that instead of the number of rostered hours of work during the averaging period 96 hours', respondents have adopted the figure 223. Hence the applicant submitted Annexure A-3 representation detailing his grievances, which was answered vide Annexure A-4 order explaining the formula adopted by them. Applicant submitted yet another representation vide Annexure A-6. In response to the same, Annexure A-1 order was issued. Applicant submits that Annexure A-1 order impugned in this O.A is totally without application of mind and contrary to the statutory provisions.

Hence he approached this Tribunal praying for the following reliefs:

- “ (a) Call for the records leading to the issue of Annexure A1 and quash paragraph 6 of the same to the extent it relates to the payment of OTA;
- (b) direct the respondents to recalculate the OTA in terms of Rule 10 of A2 Railway Servants (Hours of Work and Period of Rest) Rules, 2005 and direct further to grant all the consequential arrears within a time frame as may be found just and proper by this Tribunal
- (c) Direct the 4th respondent Palakkad Divisional authorities to arrange to pay the OTA for the period from 1.1.2006 to 27.10.2006, as promised in Annexure A3, within a time frame as may be found just and proper by this Hon'ble Tribunal. ”

4. Respondents have filed reply statement and submitted therein that the applicant's prayer for arrears on revision rate of OTA consequent on implementation of 6th CPC from 1.1.2006 to 27.10.2006 has already been considered and granted vide Annexure R-1 order produced along with reply statement. Regarding the prayer for computing OTA reckoning 96 hours as his rostered hours of duty, respondents submitted that Tower Wagon Drivers are treated at par with Goods Drivers and as per special instructions, the deemed rostered hours of running staff should be determined as 104 hours

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in a two weekly period and the payment of OTA should be regulated accordingly. Respondents pray for dismissal of this O.A as there is no amount due to the applicant.

5. Heard Mr.T.C.G Swamy, learned counsel for the applicant and Mrs.K.Girija, learned counsel for the respondents. Perused the records.

6. It is seen from Annexure R-1 that during the pendency of this Original Application, respondents have paid Rs.18,908/- as the OTA difference due to implementation of 6th CPC recommendations vide Annexure R1. Hence the prayer for grant of OTA difference for the period from 1.1.2006 to 27.10.2006 has been met. What remains is with regard to the prayer for computing OTA reckoning 96 hours as his rostered hours of duty. After perusing the documents on record, this Tribunal is of the view that applicant may file a fresh representation to respondent no.1 stating his grievance. On receipt of the same, respondent no.1 shall consider the same in accordance with rules on the subject and dispose of the same within two months from the date of receipt of a copy of this order.

7. The Original Application is disposed of as above. No costs.

**(E.K.BHARAT BHUSHAN)
ADMINISTRATIVE MEMBER**

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List of Annexures

Annexure A-1 - A true copy of letter bearing No.ETR/252/RE/PI/Misc dated 7/08.07.2015, issued on behalf of the 3rd respondent, in so far as it relates to the payment of overtime allowance

Annexure A-2 - A true copy of Railway Servants (Hours of Work and Period of Rest) Rules, 2005

Annexure A-3 - A true copy of letter bearing No.ETR/252/RE/Misc. Dated 16.7.2013, issued on behalf of the 3rd respondent

Annexure A-4 - A true copy of communication bearing No.U/P.RTIA/449/2014 dated 9.10.2014 issued by the Sr.DPO/MDU

Annexure A-5 - A true copy of Railway Board Order bearing RBE No.29/2010 dated 17.2.2010

Annexure A-6 - A true copy of representation dated 15.6.2015 addressed to the Sr.Personnel Officer/Railway Electrification/Chennai Egmore in the Office of the 3rd respondent

Annexure A-6(a) - A true translation of A6

Annexure R-1 - Sr.DPO/PGT's letter dated 10.8.2016 to SPO/RE/MS regarding payment OTA difference for the period 01/01/06 to 27/10/06

Annexure R-2 - Railway Board's order dated 29.4.1991 on Payment of Running allowance to Tower Wagon Drivers

Annexure R-3 - Hours of Work and Periodical Rest (Amendment Rules-2005) issued by Railway Board vide RBE No.131/2005 dated 9.8.2005.
