

CENTRAL ADMINISTRATIVE TRIBUNAL
MADRAS BENCH

Dated the Thursday 3rd day of January Two Thousand And Ninteen

PRESENT:

THE HON'BLE MR. R. RAMANUJAM, MEMBER (A)

O.A. 310/1534/2016

1. M.G. Narayana Raju, aged 67 years,
S/o. M. Gajapathy Raju,
No.12, Ist Main Road, IInd Cross Street,
Gopalapuram, Pattabiram,
Chennai-72;
2. Reeves Joseph Albert, 59 years,
S/o. P.H. Reeves, III Floor,
Sowmya Apartment,
Jamalia, Perambur, Chennai-11;
3. B. Selvaraj, aged 67 years,
S/o. M. Balaram,
No.46 Patel Road,
Perambur, Chennai- 600 011.Applicants

(By Advocate: M/s. C.K. Chandrasekar)

Versus

1. Union of India,
Owning Southern Railways Rep. by the
Chief Personnel Officer,
Park Town, Chennai Division,
Chennai- 600 003;
2. The General Manager,
Southern Railway, Chennai-3;
3. The Senior Divisional Personnel Officer,
Southern Railways,
Chennai Division, Chennai-03;
4. The Chief Commercial Manager,
Southern Railways,
Chennai Division, Chennai- 03. ...Respondents

(By Advocate: Mr. D. Hari Prasad)

ORAL ORDER

(Pronounced by Hon'ble Mr. R. Ramanujam, Member (A))

Heard. Applicants have filed this O.A. seeking the following relief:-

“i) to set aside the Order No. M/P.353/CC/OA1656/2105 (Ann.A-4) dated 18.01.2016 issued by the 3rd Respondent as being illegal, arbitrary and unconstitutional and consequently direct the respondents to process the request dt. 14.01.2015 of the applicants for payment of Overtime allowance (OTA) for the period from April 2001 to July 2002 and grant the same with all attendant service benefits.”

2. It is submitted that the applicants were similarly placed as the applicant in OA 282/2009 who had been granted Overtime allowance in compliance of the orders of the Tribunal dated 27.4.2010 and the order of the Hon'ble High Court of Madras in W.P. No. 24106/2010 dated 14.12.2010. As the applicants herein were not paid Overtime allowance, they filed O.A. 1620/2011 which was disposed of at the admission stage by Annexure-A1 order dated 22.12.2011 directing the respondents to extend the same benefit as extended to the applicant in OA 282/2009 to the applicants also, if they were similarly placed. Accordingly, the applicants were paid Overtime allowance for the period from July 2002 to 25.12.2005. However, the applicants also claimed OTA from 11.04.2001 to July, 2002 which was not agreed to on the ground that no such relief had been granted to the applicant in O.A. 282/2009. It was also stated that the applicants ought to have raised this claim in O.A. 1620/2011 and since the order in the said OA

was limited to extending the benefits as extended to the applicant in OA 282/2009, the applicants herein could not now seek the present relief as it was barred by the principles of constructive res-judicata.

3. Learned counsel for the applicants would submit that once it is admitted that the applicants were similarly placed as the applicant in OA 282/2009, they had to be paid OTA from the date they had actually worked overtime and the words "similarly placed" could not be interpreted to mean the applicants would only be paid for the period the applicant in O.A. 282/2009 was paid even if the latter had not worked during April 2001 to July 2002. It is the ratio of the order that would prevail and not the facts peculiar to the applicant in the said OA, it is contended.

4. Learned counsel for the respondents would, however, submit that the applicants were not entitled to OTA as per the rules and the benefit was granted to them only because of the order of the Tribunal and the Hon'ble High Court of Madras which had been implemented in the case of the applicant in OA. 282/2009. Therefore, the relief granted to the applicants herein could not exceed the relief granted in OA 282/2009 especially when this Tribunal had specifically directed the respondents to extend the same benefit as that extended to the applicant in OA 282/2009. As the applicant in OA 282/2009 was not paid OTA for the period from April 2001 to July 2002, the claim is misplaced and the OA devoid of merits, it is contended.

5. I have considered the matter. It is not in dispute that the applicants had been extended certain benefits in O.A. 1620/2011 relying on the order

passed by this Tribunal in OA 282/2009 dated 27.4.2010 and the order of the Hon'ble High Court in W.P. No. 24106/2010 dated 14.12.2010. Neither side has produced copy of the order of this Tribunal in O.A. 282/2009 nor the order of the Hon'ble High Court of Madras in Writ Petition cited supra. Further, the applicants have also not produced a copy of their representation dated 24.5.2011 which was the basis of the direction given by this Tribunal in OA 1620/2011. In the absence of relevant material, it is not possible to hold that the action of the respondents suffers from any illegality or infirmity.

6. A plain reading of the order of this Tribunal in O.A. 1620/2011 dated 22.12.2011 would also indicate the respondents were directed to extend the same benefit as that extended to the applicant in OA 282/2009. Unless the order in OA 282/2009 had excluded from the relief the period from April 2001 to July 2002 inspite of the fact that the applicant therein had worked overtime even during the said period, it is the principle behind the relief which would need to be applied rather than the exact relief granted to the applicants therein.

7. In the facts and circumstances of case, as the pleadings are silent on essential facts, I am of the view that the ends of justice would be met in this case if the competent authority is directed to consider the matter comprehensively, review the impugned order and pass a reasoned and speaking order on the claim of the applicants to be paid from 11.4.2001 to July 2002 in the light of the facts considered by the Tribunal in the order

dated 27.4.2010 in OA 282/2009 and in the order of the Hon'ble High Court of Madras in W.P. 24106/2010 dated 14.12.2010 within a period of three months from the date of receipt of copy of this order.

8. OA is disposed of with the above direction. No costs.

(R. RAMANUJAM)
MEMBER (A)

03.01.2019

Asvs.