

## CENTRAL ADMINISTRATIVE TRIBUNAL

## MADRAS BENCH

Dated the *Thursday* day *5* *Aug* day of August Two Thousand Nineteen

PRESENT:

THE HON'BLE MR. T. JACOB, MEMBER(A)

O.A/310/00634/2016

M. Mallikharjunan,  
S/o. K.G. Narasimma Iyer,  
Sabari Nivas,  
M 273, Koottapalli Colony,  
Koottapalli Post- 637 214.

....Applicant

(By Advocate: M/s. R. Malaichamy)

Vs.

1. Union of India Rep. by the  
Chief Post Master General,  
Tamil Nadu Circle,  
Anna Salai, Chennai- 600 002;
2. The Postmaster General  
Western Division,  
Coimbatore- 641 002;
3. The Superintendent of Post Offices,  
Namakkal Division,  
Namakkal- 637 001.

....Respondent

(By Advocate: Mr. J. Vasu)

O R D E R

(Pronounced by Hon'ble Mr. T. Jacob, Member(A))

This OA has been filed by the applicant under Sec.19 of the Administrative Tribunals Act, 1985 seeking the following reliefs:-

1. To call for the records of the 3<sup>rd</sup> respondent pertaining to his order which is made in No.E4/11 dated 05.06.2015 and set aside the same, consequent to
2. To direct the respondents to pay OTA for the periods from 12.01.2007 to 31.07.2010."

2. The case of the applicant is that he worked as Sub-Postmaster (SPM) Pallipalayam Agraharam Sub Office w.e.f. 12.01.2007 and retired from service on 31.07.2010 on superannuation. During the period he worked as SPM, he was asked to carry out extra duties. Therefore, he submitted Over Time Allowance (OTA) bills, MIS incentive bills. But the 3<sup>rd</sup> respondent without considering the claim rejected his request whereas similarly placed person one Smt. M. Padma was granted OTA for the periods from November 2004 to May 2005. Thus a discrimination has been meted out to the applicant by the respondents. It is further stated that Inspector of Posts, Tiruchengodu Sub Division took inspection on 13.08.2009 i.e., while the applicant was in service. In the said inspection report, it has been clearly mentioned that "the office is running with one hand SPM with a vacant of one PA causes much hardship to the SPM to complete the day to day work". Therefore, it is very evident that the applicant worked single handedly and eligible for OTA as per the rules in force. Hence the applicant has filed this OA seeking the above reliefs on the following grounds:-



- i) The applicant worked from 12.01.2007 to 31.07.2010 as SPM, Pallipalayam Agraharam SO and he retired from service. But, the 3<sup>rd</sup> respondent without considering the facts and bills submitted by the applicant rejected his claim. Hence, the order of the 3<sup>rd</sup> respondent dated 05.06.2015 is liable to be set aside..
- ii) The applicant submitted OTA bills in the prescribed format in time. The then IP, Tiruchengodu forwarded the bills to Divisional Office on 12.08.2010. Therefore, the delay is on the part of the Respondents. Hence, the order dated 05.06.2015 is liable to be set aside on this ground also,
- iii) The 3<sup>rd</sup> Respondent informed the applicant that a short duty PA was provided to the office during the said periods. But, he failed to consider the instruction issued by the Director General (P). The short duty PA should be engaged only for 60 hours in a month. Hence, the action of the 3<sup>rd</sup> Respondent is arbitrary and illegal;
- iv) Similarly placed person one Smt. M. Padma was granted OTA for the periods from November 2004 to May 2005. But the claim of the applicant was not considered. Therefore, there is discrimination meted out to the applicant by the Respondents. Hence, the act of the Respondents amount to violation of Articles 14 and 16 of the Constitution of India.
- v) The Inspector Posts, Tiruchengodu Sub-Division took inspection on 13.08.2009 i.e. while the applicant was in service. In the said inspection report, it has been mentioned that the office is running with one hand SPM with a vacant of one PA causes much hardship to the SPM to complete the day to day work. Therefore, it is very evident that the applicant worked single handedly. This fact has not been considered by the respondents.
- vi) When a similarly placed person was granted OTA, then the applicant also is entitled to the same benefit. But the respondents



wantonly delayed the matter and finally rejected his claim. This is unjustifiable.

3. The respondents have contested the OA by filing a reply.

It is stated by the respondents that the applicant during the period he worked as SPM at P.P. Agraharam Sub Post Office was never asked by any authority to carry out any extra duties other than prescribed by the rules. Further for claiming Over Time Allowance for any work in special nature, the concerned official should obtain the approval or permission of the competent authority and ensure the same before performing the work on OTA basis. The claim bills other than OTA of the applicant were already passed and paid to him and MIS incentive bill and RD PMC interest calculation bills were submitted to the Postal Accounts office for pre-authorization as the claims are pertaining to the old periods. The applicant has not submitted any representations except one letter dated 17.11.2012 that too after the lapse of 2½ years from his retirement. In the said representation he requested to pass only the OTA bills and not any other claims. Further during the tenure of the applicant at P.P. Agraharam SO, one short duty PA has been attached to the office to assist the applicant in his sphere of duties and a sum of Rs. 2400/- per month has been paid throughout his tenure. As per Rule 8 of OTA Rules, "Where overtime allowance is payable to a Government servant for the overtime work performed by him, he shall not be entitled to receive any other remuneration." Further, prior to the tenure of the applicant, one Smt. M. Padma has worked as SPM at P.P. Agraharam SO and paid OT Allowance for a certain period of her tenure. But during that period, no short duty PA was provided to assist her in day to day work and she worked



alone without any assistance and therefore, she was paid with OT Allowance. The case of the applicant is not similar to that of Smt. M. Padma and is different. Therefore, the argument of the applicant is completely irrelevant and incorrect. Further, for claiming Over Time Allowance for any work in special nature, the concerned official should obtain the approval or permission of the competent authority and ensure the same before performing the work on OTA basis. No permission was granted to the applicant to perform the work on OTA basis. The applicant himself agreed that one short duty PA was provided at this office during his tenure at P.P. Agraharam SO. So, the applicant purposefully utilized the assistance of short duty PA during his service in the Respondent's department and submitted the OTA claim for the same work after his retirement, which is not correct and against natural justice. Hence the respondents pray for dismissal of the OA.

4. Both sides have filed their respective written statement of arguments.
5. Heard the learned counsel for the respective parties and perused the pleadings and documents on record.
6. The Department of Personnel and Training has issued OM dated 19.03.1991 in respect of Over Time Allowance to the Central Government employees. Para 6 of the said OM is relevant and is reproduced hereunder:--

#### OFFICE MEMORANDUM

Subject: Overtime allowance to Central Govt. Employees

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6. As already laid down in the above mentioned O.Ms dated 11.08.76 and 13.11.86, Ministries/Departments etc., are advised to organize their work in all offices in such a way as to complete it during the normal working Hours. The standards of supervision should be



tightened to achieve this objectives. If inspite of all measure taken to re-organize the work and tightening of supervision, there are cases of work on holidays and excessive duty hours, the Government employees should normally be allowed compensatory off days. However, in exceptional circumstances where compensatory off cannot be given and it is inescapable to employ staff on overtime week, after satisfying himself that the work is of such an urgent nature that it cannot be postponed in the public interest till the next working day, the competent authority shall, as far as possible, specify beforehand the time upto which a Government servant may be required to perform overtime work.

7. The above OM is a reflection of the mind of the department as to austerity to be performed and in the event of any extra work performed, compensatory off could be claimed and there is a rigid procedure for claiming Over Time Allowance.

8. In the present case, the respondents have disputed the basic entitlement of the applicant to overtime allowance. The fact that the pre-requisite of obtaining permission to perform overtime to claim the same has not been obtained is the admitted fact. Records do not reflect any such drill performed. Short time assistance was also afforded to the said post office, which the applicant too has admitted. No order was also issued to him to perform duty in the over time. The representation by the applicant 30 months after his superannuation and approaching the Tribunal after twice the like period raise reasonable doubts in the minds of the authority over the credibility and genuineness. No actual dates or any period has been specified when the applicant was allegedly asked to work for overtime. In addition, the Office Memorandum extracted above is a clear indicator that overtime could be granted only in exceptional circumstances and that too by following the requisite procedure. Further, the respondents would also submit that the MIS incentive bill and RD PMC interest calculation



bills were submitted to the Postal Accounts Office for per-authorization as the claims are pertaining to the old periods. Had there been any genuineness in respect of OTA bills, the department would have certainly included the same.

The case of Smt. Padma cited by the applicant is also inappropriate inasmuch as there was no short duty PA attached to the office at the material point of time and further, the authorities confirmed that all the requisite formalities to be fulfilled for claiming overtime allowance including prior permission of the competent authority, had been performed in that case, which is admittedly lacking in the case of the applicant.

9. In view of the above, we find no reason to interfere with the impugned order of the respondents. The attempt of the applicant is unjustified.

10. In the result, the OA is liable to be dismissed and is accordingly dismissed. No costs.