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(PROCEEDING) FILE

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

II nd Floor, Commercial Complex(BDA)
Indiranagar, Bangalore – 560 038

Dated:- 27 JUN 2014

ORIGINAL APPLICATION NO :523/2013 AND 524/2013

APPLICANT(S): All India RMS & MMS Employess Union Group'C' Rep, by Circle
Secretary, Sri A. Srinivas, B,lore & anr.

V/s

RESPONDENT(S): The UOI Rep, by the Secretary, D/o Personnel & Training,
New Delhi & 3ors

TO.

1. ✓ Sri P. Kamalesan Advocate
No.169/A, 4th Main Road, 4th Block,
Rajajinagar,
Bangalore – 560 010.
2. Sri M.V.Rao. Sr,C,G,S,C.
003, Premier Residency,
No.1, Lazar Road, Frazer Town,
BANGALORE – 560 005.

Subject:- Forwarding of copies of the order passed by the
Central Administrative Tribunal, Bangalore.

A Copy of the Order dated **19-06-2014** passed by this Tribunal in the above
OA is enclosed herewith for your information and further necessary action.

A. Shomeena
27/6/2014
For Deputy Registrar
Central Judicial Branch
Bangalore Bench, Bangalore

**CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH, BANGALORE**

ORIGINAL APPLICATION NO.523/2013 & 524/2013

DATED THIS THE DAY OF 19TH JUNE, 2014

**HON'BLE SHRI G.SHANTHAPPA
HON'BLE SHRI RUDHRA GANGADHARAN**

**...MEMBER(J)
....MEMBER(A)**

1. All India RMS & MMS Employees Union,
Group'C' represented by Circle Secretary,
A Srinivas, Age:49 years, S/o K.Anjanappa,
Working as Sorting Asst., Bangalore City RMS,
Bangalore-23, Residing at 576,
Ramagondanahalli, White Field,
Bangalore – 560 066.
2. V.Shantha Kumar,
Mail Guard Age:53 years,
S/o M.C.Varadaiah, SRO, RMS Dv.,
Mysore – 570 021, Residing at No.1600,
HOO Layout, Sakthi Nagar, Mysore-570029.

...Applicants

(By Advocate Shri P.Kamalesan)

Vs.

1. The Union of India,
Represented by the Secretary,
Department of Personnel and
Training, New Delhi – 110 001.
2. The Secretary,
Ministry of Finance,
Department of Expenditure,
New Delhi – 110 001.
3. The Secretary,
Department of Posts,
Dak Bhavan, New Delhi – 110 001.
4. The Chief Post Master General,
Karnataka Circle,
Bangalore – 560 001.

...Respondents

(By Senior Central Government Standing Counsel Shri M.V.Rao for
respondents)



ORDERHON'BLE SHRI RUDHRA GANGADHARAN ...MEMBER(A)

The applicants are employees of the Railways Mail Service Wing of the Postal Department, Karnataka Postal Circle. They submit that they are categorized as operative staff of the Postal Department and are therefore entitled to Over Time Allowance (OTA). The OTA rates were sanctioned long ago. The applicants have raised the issue of enhancing the OTA time and time again to no avail. Hence the present OA.

2. The applicants submit that the prevailing OTA rates were laid down in OM dated 19.3.1991 issued by the Union Ministry of Finance and DOPT's OM dated 21.11.1997 in accordance with the pay scales of the IVth Central Pay Commission (CPC) and have not been revised since then. The pay structure of Central Government employees has since been revised on the basis of the recommendations of the Vth and then the VIth (CPC) but the OTA continues to follow the old rate. At the same time the Railways has revised the rates of OTA to its employees based on the revised pay scales of the VIth CPC vide Railway Board circular No.29/2010 dated 17.2. 2010 and RBE 72/2011 dated 20.5.2011

(Annexure A2).

The applicants have raised the issue of enhancing the OTA continuously in various fora including the joint consultative machinery and have even gone on strike, with little to show for it. While the hourly rate now in force varies from Rs.7.95 per hour to a maximum of Rs.15.85 per hour retired employees are paid Rs.40/- per hour and outsiders engaged by the Department are paid Rs.37/- per hour. The applicants claim that the existing OTA rates violate the provisions of Articles 14 and 16 of the Constitution and are well below the rates prescribed by the Union Ministry of Labour. The applicants are forced to work over time for fear of disciplinary action. The applicants have therefore prayed for quashing the OM dated 19.3.1991 as well as the OM dated 21.11.1997, and for a direction to



Government to revise OTA rates based on the pay scales recommended by the 6th CPC.

4. In their reply statement the respondents have vehemently denied the need for any introspection on the subject. They point out that successive CPCs have found no justification for paying OTA; they have instead recommended discontinuation of OTA except in respect of certain categories like staff car drivers, operational staff and industrial employees. The 6th CPC had recommended that instead of OTA increased productivity and efficiency should be rewarded with through a Performance Related Incentive Scheme (PRIS). However, the Union Government decided to continue the status quo in regard to payment of OTA, and made no change in the rates either.

5. The respondents point out that Railway servants are regulated by a separate set of rules and terms of service as against Civil Central Government employees who draw their salaries from the Civil Estimates. Their service conditions of the latter are regulated by service rules and they do not come under the purview of the Minimum Wages Act, labour laws or instructions of the Union Ministry of Labour.

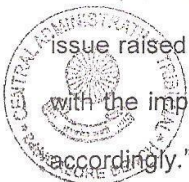


6. While conceding that the question of revising OTA has been discussed on numerous occasions with employees unions, the respondents also refer to an award of the Board of Arbitration (Case No.2/2004) which recommended that "Over Time Allowance to all the employees entitled thereto, shall be calculated on the basis of actual pay in the 5th Pay Commission revised pay scales and not on the basis of notional pay in the pre-revised basis pay of 4th Pay Commission pay scales. Keeping in view the financial implications, we direct the Government to calculate the over time allowance with effect from the date of Award." This award was examined in a meeting of Committee of Secretaries (COS) held on

31.1.2011 where it was decided that the status quo on continuing payment of OTA at existing rates may continue till the PRIS is formulated and implemented.

7. The respondents also point to the provisions of FR11 which stipulates that the whole time of a Government servant is at the disposal of the Government which pays him and it may be paid in any manner required by the appropriate authority without claiming additional remuneration. Thus, continuation of such entitlements is a matter of special dispensation provided by the Government to address special situations where a particular work cannot be deferred in the public interest. The provision for grant of OTA is therefore not applicable across the board for all employees. The respondents also stress that Government continues to pay OTA despite recommendations to the contrary by successive CPCs.

8. The respondents have also drawn our attention to the order of Madras Bench of this Tribunal in OA No. 1345/2011.. The said OA was filed by the All India Association of Postal Drivers and others seeking revision of OTA rates. The respondents in that OA pointed out that the Department of Posts had taken up the issue with the Nodal Ministry on 23.1.2002 but to no avail. The Tribunal therefore decided on 9th April 2013 that: "As rightly contended by the respondents, unless the said Nodal Ministry approves the proposal sent by the Department of Posts for revision of OTA rates, they are not in a position to revise the OTA rates on its own and it is a policy decision of the Government. In other words, the Department of Posts cannot take an independent decision on the issue raised by the applicants. In view of the above, I see no reason to interfere with the impugned order and the OA is liable to be dismissed and is dismissed accordingly."



9. We find that the decision of the Madras Bench of this Tribunal continues to hold good. In fact we fail to see how this Tribunal is involved in this matter at all. The OA is therefore dismissed. No costs

sd/-

(RUDHRA GANGADHARAN)
MEMBER(A)

sd/-

(G.SHANTHAPPA)
MEMBER(J)

sd.



TRUE COPY

A. Hemappa
27/6/2014

SECTION OFFICER
Central Administrative Tribunal
Bangalore Bench