

**Maya Tripathi Widow Of Late Kripa Shankar Tripathi, R/O Village
Madhawa, Post Office, Lamahi Pandeypur, District Varanasi & Ors. Vs
Union Of India Through General Manager, North Eastern Railway,
Headquarter/Office, Gorakhpur, UP. & Ors.**

Court: Central Administrative Tribunal - Allahabad Bench, Allahabad

Date of Decision: Jan. 15, 2025

Acts Referred: Indian Railway Act, 1989 & Rule 130

Hon'ble Judges: Om Prakash VII, Member (J)

Bench: Single Bench

Advocate: Uma Shankar Singh, Pramod Kumar Rai

Final Decision: Dismissed

Judgement

Om Prakash - VII, Member & J

1. The applicants have filed this OA for quashing the impugned order dated 15.02.2019 by which the representations of applicants for payment of

overtime allowance has been rejected by the respondent NO.5. They have further prayed a direction be issued to the respondents to make the

payment of the pending claim/OT dues of the four hours extra work done by the applicants from the year 2005-2011 due date in the department of

Signal and Information, North Eastern Railway, Varanasi in accordance with the roster which was made legally in the year 1982 under the provisions

of law.

2. Brief facts of the case are that the applicant No.1, is the widow of late Kripa Shankar Tripathi, who was initially appointed on the post of Helper

(Khalasi) on 11.04.1985. After one year's training the services of Kripa Shankar Tripathi was regularised on the post of Electrical Signal Man (ESM).

Thereafter he was promoted to the post of ESM-III, ESM-II, ESM-I and subsequently he was promoted to the post of Master Craft Man (MCM).

Husband of the applicant No.1, Retired on 31.12.2013 from the post of Master Craft Man (MCM). The husband of the applicant No.1 died on

06.08.2018 due to the brain hemorrhage, leaving behind his wife Maya Tripathi the applicant No.1 and two sons namely Ram Ji Tripathi and Avinash

Tripathi, as his legal heirs. Similarly the applicant No.2 joined his duties on the post of Helper (Khalasi) 23.08.1984 on permanent basis. He retired in

the month of June, 2011 from the post of Helper (Khalasi) in the Department of Signal North Eastern Railway, Varanasi. The employees of the Signal

Department were doing 08 hours duty in accordance with the roster issued by the Indian Railway Department dated 20.08.1982. North Eastern

Railway issued a duty roster dated 16.05.2005 fixing total working period in 72 hours in a week and rest 30 hours without following the procedure

prescribed under the Indian Railway Act, 1989 and Rule 130 of the Indian Railway Rules. Some of the employees objected the working period in the

department of Signal and Information, North Eastern Railway, Varanasi filed a complaint before the respondent No. 4. It is stated that they were

working on the said post continuously for 12 hours every day in a week and they had also made several complaints to this effect but the respondents

did not pay any heed. It has been alleged that the applicants were neither given rest nor they were paid overtime allowance as per rules. Applicants

sent representations dated 09.03.2018 to the respondent NO.5 praying therein to make the payment of overtime allowance. They had also sent a

reminder to the respondent No.2 for payment of overtime bills. When representations of the applicants have not been decided, they approached this

Tribunal by way of OA No. 1164 of 2018. The Tribunal vide order dated 2.11.2018 disposed of the OA whereby directed the respondents to decide

the representation of the applicants by a reasoned and speaking order. Since the order of the Tribunal has not been complied with, applicants filed

contempt petition No. 330/26 of 2019 before this Tribunal. Later-on in compliance of the Tribunal, respondents passed the impugned order dated

15.02.2019 whereby rejected the claim of the applicants, which was challenged in this OA.

3. In reply, the respondents have denied the contentions of applicant by filing counter affidavit. It is stated in the counter affidavit that the duty roster

dated 20.08.1982 was applicable till 18.09.1996. Subsequently in the year 1996, the competent authority has issued New Essential Intermittent (10+2)

hours duty roster which was applicable with prospective effect. There is no change in the roster and roster issued in the year 1996 is applicable till

today. Thus the applicants were not entitled for overtime allowance.

4. In the rejoinder, the applicants reiterated the averments made in the OA and further stated that they had continuously worked for 12 hours per day

without rest under duress conditions and therefore they are entitled for overtime allowance.

5. I have heard Shri Uma Shankar Singh, learned counsel for the applicant and Shri Pramod Kumar Rai, learned counsel for the respondents and

perused the record.

6. Submission of the learned counsel for the applicants is that applicants are entitled for payment of the overtime allowances due for the four hours

extra OT duties in accordance with the roster issued in the year 1982. Learned counsel for the applicants submitted that North Eastern Railway's duty

roster issued on 16.05.2005, appears to be in violation of the Indian Railway Act, 1989, and Rule 130 of the Indian Railway Rules. The roster fixes the

total working period at 72 hours in a week and rest for 30 hours, which may not be in compliance with the prescribed regulations. Learned counsel for

the applicants further submitted that they had worked 12 hours a day in a week. Applicants were not paid overtime allowance as per rules. They had

made repeated demand for payment of overtime, which were ignored by the respondents. Learned counsel for the applicants has relied upon para

1502 of the Indian Railway Establishment Code, which is as under:-

“1502. Overtime allowance is an allowance paid to railway servants for actual time work in excess of the hours of employment

prescribed by any law or rule”.

7. In rebuttal, learned counsel for the respondents argued that the duty roster dated 20.08.1982 was applicable until 18.09.1996. They have further

argued that a new Essential Intermittent (10+2) hours duty roster was introduced in 1996, effective prospectively. The 1996 roster remains unchanged

and applicable till today. Thus, applicants are not entitled to overtime allowance since they did not work beyond prescribed hours per day.

8. I have considered the arguments advanced by the learned counsel for the parties and have perused the records.

9. From the perusal of record, it appears that the applicants had earlier filed OA NO. 1164 of 2018 seeking overtime allowance and the aforesaid OA

was disposed of, directing respondents to decide the applicants' representations dated 09.03.2018 regarding non-payment of overtime allowance for

extra duty (4 hours per day). When respondents failed to decide on applicants' representations, applicants filed a contempt petition against respondents

for non-compliance with the order dated 02.11.2018. The said representation of the applicants was rejected by the respondents vide impugned order

dated 15.02.2019 stating therein that in compliance with the order of Tribunal passed in OA No. 330/01164/2018 on 05.11.2018, respondents have

examined the claim of the applicant and thereafter rejected the representations given by the applicants in which they had demanded payment of

overtime allowance. It is clear from the perusal of impugned order that vide letter of CSE/Sig/Varanasi, the duty roster of the employees of the signal

department of Varanasi City Station is of 12 hours, which was implemented on 16.05.05 after taking approval of the competent authority. The roster in

Varanasi City was of 12 hours and duty was also taken for 12 hours. Therefore, as per the roster, no overtime allowance of any kind is made out in

favour of the applicants.

10. After thoroughly perusal of para 1502 of Indian Railway Establishment Code, when employees are required to work beyond actual hours stipulated

for duty, they are entitled to overtime allowance as a form of financial recognition for the additional effort and time spent but in this case I am of the

view that in the case of employees of Signal Department, it is for 12 hours duty. In this regard a roster dated 16.05.2005 was issued, which was duly

approved by the competent authority, thus, in my considered opinion applicants are not entitled for overtime allowance as they are related to the Signal

Department and as per aforesaid duty roster working hours of employees of Signal Department are 12 hours a day.

11. In view of the aforesaid deliberation mentioned hereinabove, OA is liable to be dismissed and the applicants are not entitled to overtime allowance

for the period they actually worked beyond 8 hours in a day. Accordingly, OA is dismissed. No order as to costs. All associated MAs are disposed of.