

(2007) 03 DEL CK 0072

In the Delhi High Court

Case No : Writ Petition (C) No. 13317 of 2004 and CM No. 9292 of 2004

Union of India (UOI)

APPELLANT

Vs

Paley Ram and Others

RESPONDENT

Date of Decision : 09-03-2007

Acts Referred:

Citation : (2007) 03 DEL CK 0072

Hon'ble Judges : Mukul Mudgal, J;Aruna Suresh, J

Bench : Division Bench

Advocate : Shahid Anwar, for the Appellant; Meenu Mainee, for the Respondent

Final Decision : Dismissed

Judgement

Mukul Mudgal, J.—Rule DB. With the consent of the learned Counsel for the parties, the writ petition is taken up for final hearing.

2. This writ petition challenges the judgment dated 26th March, 2004 in OA No. 3285/2001 of the Central Administrative Tribunal (in short

"CAT"). The nine respondents who were working as Points Men/Shunt Men/Cabin Men at Khukrana Railway Station under the Northern

Railways had approached the CAT raising their grievance that they had been forced to perform 12 hours duty every day contrary to the Rules

which require them to render service for 8 hours.

3. The respondents' stand before the CAT was that upon the opening of the Khukrana Station in the year 1994, Station Working Rules were

issued by the respondents requiring all the respondents to work in 8 hours shift and that the station working Rules were reviewed every three years

but no change has been recommended. It was further submitted that due to the shortage of staff, the staff deployed at Khukrana Station who were

working since 1994 for a period of 8 hours, were put to work for 12 hours duty and they claimed overtime allowance for 4 hours which was duly

paid to three of such persons. Remaining respondents were posted in the year 1995 but were not given their due emoluments.

4. The petitioner's plea before the Tribunal was that the respondents were classified in E-1 classification and were required to perform 12 hours

duty as per Hours of Employment Regulations. The factual job analysis was relied upon to contend that an action period came to 25 hours where

the period of non-action came to 47 hours per week and Therefore, the classification of the respondent in E-1 classification is justified. It was also

stated by the petitioner that the factual job analysis report has been submitted to the competent authority for approval and though it is evident and

not denied that no approval by the competent authority has been pleaded before the Tribunal. Accordingly, the Tribunal has held as follows:

(a) The station working Rules clearly stipulated working period of 8 hours for the respondents and the same rules hold the field up to date.

(b) No orders had been passed by the competent authority classifying the respondents as E-1 category. Prayer was thus made for continuance of

the existing Station Working Rules.

(c) The petitioner cannot invoke the provisions of S. No. 3545 for classifying the respondents as E-1 category of employees because the station

working Rules which were periodically confirmed up to 2000 show that the same have been issued after every three years and the petitioners have

themselves prescribed the duty hours for 8 hours duty only.

(d) Till a proper notification is issued declaring the respondents as E-1 category, the petitioner cannot force the respondents to work for 12 hours

and the station working Rules for new station which have been issued from time to time and confirmed every three years shall govern the working

condition of the respondents and such rules prescribed only 8 hours.

5. Even today we have not been shown any order of the competent authority. In this view of the matter, we see no reason to interfere with the

Tribunal's order which has only enforced the existing station working Rules formulated by the petitioner themselves. The writ petition is accordingly

dismissed.

6. The writ petition and the application for stay stand disposed of accordingly.

7. Since the petitioner has enjoyed the interim order from this Court since 2004, it will be appropriate and in the interest of justice that the benefit of the impugned judgment of the CAT be given to the respondent not later than 30th April, 2007, failing which such dues shall carry interest at 6% p.a. from the date of the judgment of the CAT up to the date of payment.