

IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH

CWP-4997-2016 (O&M)
Date of decision: 09.05.2017

Joginder Singh Bedi

.....Petitioner

versus

Food Corporation of India and another

.....Respondents

CORAM: Hon'ble Mr.Justice Kuldeep Singh

Present: Mr.K.S.Rekhi, Advocate for the petitioner
Mr.J.S.Puri, Advocate for the respondents

- 1. Whether Reporters of Local Newspapers may be allowed to see the judgment ?*
- 2. To be referred to the Reporters or not ?*
- 3. Whether the judgment should be reported in the Digest?*

Kuldeep Singh, J. (Oral)

Petitioner seeks quashing of the impugned order dated 3.2.2016 (Annexure P3) passed by the respondent department whereby the claim of the petitioner for over time allowance was declined.

In the present writ petition, the petitioner claimed that he is entitled to over time allowance. According to the petitioner, he obtained information under RTI Act 2005 (Annexure P4) which shows that he worked for 870 hours of overtime from the year 2007 to 2013, for which, he is entitled to over time allowance.

The respondents on the other hand have taken a stand that as per instructions of 1977 (Annexure R1), over time allowance bill can be submitted within three months from the date of performance of the duty. In the present case, over time allowance bills were submitted on 2.1.2014 and 4.1.2014. Petitioner retired from service on 28.2.2013. Therefore, the claim of the petitioner is time barred.

I have heard learned counsel for both the parties and have also carefully perused the record.

Admittedly, as per information obtained under the RTI Act, the petitioner is stated to have worked over time for 870 hours from the year 2007 to 2013. Petitioner retired from service on 28.2.2013. It is not denied by filing of the replication that the over time allowance bills were submitted on 2.1.2014 and 4.1.2014 nearly more than 10 months after the retirement of the petitioner. The instructions of the department dated 10.10.1977 (Annexure R1) regarding claim of the over time allowance are reproduced as under:-

It has been observed that uniform procedure is not being followed in all the offices of the Corporation regarding the entertainment of Over Time Allowance claims submitted by the employees.

The matter has been examined and it has been decided that in order to have uniformity of procedure, Overtime Allowance claims should be submitted by the employees within 3 months from the date on which over time duty is performed. Claims submitted after a period of 3 months may be admitted only with the specific approval of the authority competent to sanction over time work to the employees concerned. In the case of employees working in Head Office, approval of the Head of Divisions for admitting claims after a period of 3 months will be necessary.”

Learned counsel for the petitioner has argued that over time allowance is a part of the pensionary benefits. Therefore, it is not time barred and can be made at any time. Whereas, learned counsel for respondents has contended that to check the malpractice to claim the over time at any time, the instructions were issued and instructions of 1977 have not been challenged in the present writ petition.

I am of the view that if the petitioner claimed that he worked over time in the year 2007 onwards till 2013, he was bound by the instructions of the department to make over time claim so that the same is verifiable. However, petitioner remained silent till his retirement and thereafter 10 month, he made the claim. The instructions of 1977, reproduced above, have not been challenged in the present writ petition. Therefore, the petitioner is bound by the administrative instructions. Over time allowance bill is now time barred. It is not the part of the pensionary benefits and is a specific claim for over time. Consequently, the present writ petition is dismissed.

09.05.2017*gk***(Kuldip Singh)
Judge**

Whether speaking/ reasoned:

Yes

Whether Reportable:

No