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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ W.P.(C) 8408/2018, CM APPLs. 35818/2019, 35819/2019,
35820/2019 & REVIEW PET. 311/2019

1 UNION OF INDIA AND ORS.

..... Petitioners

Through: Mr. Satya Ranjan Swain, Sr. Panel
Counsel with Mr. Kautilya Birat,
Adv.

versus

BALWAN SINGH AND ORS.

..... Respondents

Through:

AND

+ W.P.(C) 8504/2018, CM APPL. 37679/2019 &
REVIEW PET. 336/2019

2 UNION OF INDIA AND ORS.

..... Petitioners

Through:

versus

OM PRAKASH

..... Respondent

Through: Mr. A. Banerji, Adv.

AND

+ W.P.(C) 8628/2018, CM APPL. 39029/2019 &
REVIEW PET. 352/2019

3 UNION OF INDIA AND ORS.

..... Petitioners

Through: Mr. Vineet Dhanda, CGSC with
Mr. Durga D. Vashist, Adv. for UOI

versus

HARI RAM AND ORS.

..... Respondents

Through: Mr. A.K. Trivedi and Ms. Pratharna,
Adv.



CORAM:

HON'BLE MR. JUSTICE V. KAMESWAR RAO

HON'BLE MR. JUSTICE ANUP JAIRAM BHAMBHANI

ORDER

09.02.2024

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CM APPLS. 35819/2019 & 35820/2019 IN W.P.(C) 8408/2018

CM APPL. 37679/2019 IN W.P.(C) 8504/2018

CM APPL. 39029/2019 IN W.P.(C) 8628/2018

These applications are filed by the petitioners seeking condonation of delay in filing and re-filing the review petition.

For the reasons stated in the applications, these applications are allowed.

Applications disposed of.

REVIEW PET. 311/2019 & CM APPL. 35818/2019

REVIEW PET. 336/2019

REVIEW PET. 352/2019

1. These review petitions have been filed seeking review of the orders dated March 20, 2019 and April 30, 2019. We find that the writ petitions have been allowed in view of the judgment rendered by the Co-ordinate Bench of this Court in the case of *Union of India & Ors. v. Prem Singh & Ors., W.P.(C) 8088/2016* dated September 27, 2016. The orders in W.P.(C) 8408/2018 and 8628/2018 of which review is sought also refers to paragraphs 3 and 4 of the said order, which are reproduced as under:

"3. We have considered the said contention but do not find any merit in the submission. Clause 4 relates to appeals against classification. In the present case, the issue of classification was adjudicated and decided by the Tribunal in OA No.2509/2008 titled "Rohtas and Another v. Union of India through the General Manager, Northern Railway and Others vide order dated 21.01.2014 in favour of the respondents holding that the



respondents being a Class 'A' Gateman were bound to work for 8 hours and in case of additional working hours, they were entitled to be paid overtime allowance as stipulated in the rules.

4. This decision was challenged by the petitioners in W.P.(C) No. 7164/2011 and W.P.(C) No.7172/2011. The High Court by a common order dated 18.02.2013 upheld the order of the Tribunal observing as under:

"12. We highlight survey report resulting in the order dated July 08, 2006 being issued when the level crossing manned by Rohtas and Mange Ram i.e. level crossing No.23 having gate No.23A came under the jurisdiction of the Delhi Division. Pertaining to the work at the interlocked engineering level crossing gate No.23A, with respect to the traffic the order records that the crossing has to be manned by : '3 (Three) Engineering Gatemen in 8 hours shift'.

13. Now, the numeral „3" is succeeded by the number being typed in words. Further, on the assumption that instead of typing „2" followed by writing „two" somebody erroneously typed „3" followed by writing „three", it remains unexplainable as to how come it was then typed „8 hours shift". For the reason if the traffic was less and as a consequence the gateman (sic, got) enough rest period in between requiring normal duty hours to be 12 hours, it had then to be recorded „in 12 hours shift" and not „in 8 hours shift".

14. For record we would note that it is the admitted case of the parties that 12 hours shift is permissible without extra wages if the intermittent breaks during working hours i.e. the nature of work is such that a person can take rest at stretches not less than 30 minutes.

15. We dismiss the writ petition highlighting that twice traffic volume was determined and the authorities categorically wrote that the level crossing(s) had to be manned by three gatemen with 8 hours shift and thus the Tribunal has reached the correct conclusion. Indeed, the respondents would be entitled to overtime wages directed to be paid.

16. The writ petitions are dismissed but without any order as to costs."



2. We have been informed that the judgment of the Co-ordinate Bench in ***Prem Singh (supra)***, has been implemented by the respondents inasmuch as the respondents have granted overtime to personnel who have worked beyond 8 (eight) hours as Pointsman.
3. If that be so, we are of the view that the review of the orders dated March 20, 2019 and April 30, 2019 in the above writ petitions, is without merit. The review petitions are dismissed along with pending application.
4. A copy of this order be kept in all the petitions.

V. KAMESWAR RAO, J

ANUP JAIRAM BHAMBHANI, J

FEBRUARY 09, 2024/ds