

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

123

CWP No.19248 of 2022 (O&M)
DATE OF DECISION: 30th AUGUST, 2022

Amit Kumar

.... Petitioner

Versus

Union of India and others

.... Respondents

CORAM : HON'BLE MR. JUSTICE RAJBIR SEHRAWAT

Present : Mr. Akhilesh Vyas, Advocate,
for the petitioner.

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RAJBIR SEHRAWAT, J. (Oral)

This is a petition filed under Articles 226/227 of the Constitution of India seeking issuance of a writ in the nature of Mandamus directing respondent Nos.5 and 6 to release the salary for services rendered in overtime period by the petitioner.

The claim of the petitioner is that the petitioner was initially appointed as Chowkidar in the office of the Cantonment Board, Amritsar on 28.08.1999 in the pay scale of Rs.2500/4120. The petitioner joined duty on 01.09.1999. As per the rules, the petitioner was required to perform duty for 8 hours in the day or night. However, the petitioner was put on a longer duty hours by asking him to perform duty from 6.00 PM to 6.00 AM, i.e. for 12 hours duration. The petitioner was paid Rs.200/- per month as Chowkidar allowance. Since, the petitioner was made to work for more than 8 hours from 04.02.2009 to 23.12.2016, therefore, the

petitioner should have been paid the overtime allowance for this period. However, the said allowance is not being paid by the respondents. Hence, the petitioner deserves to be paid the same, which is amounting to total of Rs.30,67,044/-.

Arguing the case, learned counsel for the petitioner has submitted that since the duty hours could not have been extended beyond 8 hours, therefore, for every extra hour, the petitioner is required to be compensated by making payment of overtime allowance. The petitioner filed the representation to the respondents, however, the said representation has been wrongly rejected without making reference to any rules denying the overtime allowance to the petitioner.

Having heard the counsel for the petitioner and having perused the case file, this Court does not find any ground to interfere in the matter. It is not even in dispute that the petitioner was appointed on the post of Chowkidar only. The job is to do the duty of watch and ward as per the requirement of the office. The petitioner was put only on that duty by the respondents. The petitioner has performed the duty only as required of his post. Although the petitioner has not placed on record anything to show that the duty hours of the petitioner could have been restricted by respondents only for 8 hours, however, even if it is to be assumed that the petitioner was asked to perform duty for some extra hours, it is not disputed by the petitioner that he was being paid Chowkidar allowance over and above his normal salary; at the rate of Rs.200/- per month, initially which was subsequently enhanced to Rs.400/- per month. Therefore, the petitioner has already been

compensated for any extra work, as deemed appropriate by the concerned authority, for the entire period of extra duty hours.

Although the counsel for the petitioner has raised claim qua the overtime allowance, however, the petitioner has failed to refer to any provision which entitled him to any overtime allowance while working on the post to which he is appointed. The argument of the counsel for the petitioner that the petitioner is required to be compensated for every extra hour of working is not supported by any statutory provisions or the policy decision of the respondents. However, the extra payment being a financial entitlement cannot be granted to the petitioner except in accordance with the rules or instructions of the department. In absence of any such rules or instructions entitling the petitioner to any overtime allowance, no benefit can be extended to him by this Court.

In view of the above, finding no merit in the present petition, the same is dismissed.

30th AUGUST, 2022
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(RAJBIR SEHRAWAT)
JUDGE

Whether speaking/reasoned: *Yes* *No*

Whether Reportable: *Yes* *No*