



2024:DHC:8803-DB



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

+ **W.P.(C) 3473/2016**

BHIM RAO YADAV AND ANR

.....Petitioners

Through:

versus

CHAIRMAN-CUM-MANAGING DIRECTOR AND ORS

.....Respondents

Through: Mr. Akshat Tiwari and Mr.
Uday N. Tiwari, Advocates

CORAM:

HON'BLE MR. JUSTICE C. HARI SHANKAR

HON'BLE MR. JUSTICE GIRISH KATHPALIA

JUDGMENT (ORAL)

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13.11.2024

C. HARI SHANKAR, J.

1. There is no appearance on behalf of the petitioners. However, as this case has been pending for eight years as on date, we are not inclined to await the appearance of the petitioners.

2. Petitioner 1 and Petitioner 2 were Drivers and Conductor in the Delhi Transport Corporation. They moved the Tribunal by way of OA 290/2015 seeking overtime allowance¹ on the ground that they had worked beyond their scheduled working hours. They based their case on a file noting. The DTC, in reply, stated that they had taken a policy decision to completely ban payment of OTA and that, in order to compensate staff overtime, two rests or more could be given after

¹ OTA

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every 48 hours' duty in a week.

3. The Tribunal has, in para 7 of the order, clearly held that they were not expressing any opinion on the petitioners' claim. Instead, the Tribunal gave liberty to the petitioners to apply to the respondents for getting rests.

4. The petitioners, aggrieved thereby, are before this Court.

5. We are of the opinion that the Tribunal has abdicated the duty which was cast on it in passing the impugned orders. It was incumbent on the Tribunal to take a decision one way or other on the petitioners' claim. It was not open to the Tribunal to dispose of the matter without expressing any opinion on the merits thereof.

6. In view thereof, we set aside the impugned orders dated 16 December 2015 and 18 March 2016 passed by the Tribunal in OA 290/2015 and RA 65/2016 and remand the matter to the Tribunal for a *de novo* consideration of the petitioners' claim.

7. Let the *de novo* decision be taken within a period of four weeks.

8. As the petitioners are absent today, the Registry of the Tribunal would issue notice to the petitioners to secure their presence. Both sides would be heard before any decision is taken.

9. We, however, do not express any opinion on the merits of the petitioners' claim.

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10. This writ petition stands disposed of in the aforesaid terms.

C. HARI SHANKAR, J.

GIRISH KATHPALIA, J.

NOVEMBER 13, 2024

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Click here to check corrigendum, if any