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W.P.Nos.7743 to 7747 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.04.2025

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THE HONOURABLE MR.JUSTICE M.DHANDAPANI

W.P.Nos.7743 to 7747 of 2017

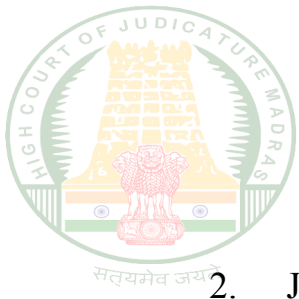
and

WMP.Nos.8465 to 8473 of 2017

1. The Union of India,
Rep. by its General Manager,
Southern Railway,
Park Town, Chennai – 3.
2. The Chief Personnel Officer,
Southern Railway,
Park Town, Chennai – 600 003.
3. The Senior Divisional Personnel Officer,
Salem Division, Divisional Railway Manager's Office,
Southern Railway, Salem – 636 005.
4. The Senior Divisional Personnel Officer,
Palghat Division, Divisional Railway Manager's Office,
Southern Railway, Palghat. ...Petitioners in all W.P's.

Vs.

1. Shri.Kapil Kumar
Ex. Station Master, Eriodu Railway Station,
Present Station Master, Banpas Railway Station,
Village & Po – Belari, Dist. Burdwan,
West Bengal – 713 141. ...1st Respondent in W.P.No.7743 of 2017

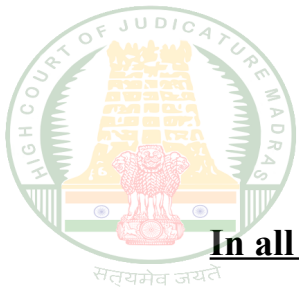


W.P.Nos.7743 to 7747 of 2017

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2. J.Sundara Raja,
Retired Station Superintendent,
2/470, Jeevanesan Nagar, Thamaraipadi,
Dindigul – 624 005. ...1st Respondent in W.P.No.7744 of 2017
3. Shri.M.Sadiqu Ali Khan
Retired Station Master,
34/46, Kilethar Street, Dig Chowk,
Trichy – 620 002. ...1st Respondent in W.P.No.7745 of 2017
4. C.Periyasamy,
Station Superintendent,
Palayam Railway Station,
Salem Division, Palayam,
Dindigul (Dt) – 624 620. ...1st Respondent in W.P.No.7746 of 2017
5. S.Ignatius Xavier,
Retired Superintendent,
Palayam Railway Station,
Salem Division, Palayam,
Dindigul District – 624 620. ...1st Respondent in W.P.No.7747 of 2017
6. The Presiding Officer,
Central Government Industrial Tribunal
Cum Labour Court,
Chennai – 600 006. ...2nd Respondent in all W.P's.

COMMON PRAYER: Petitions filed under Article 226 of the Constitution of India, for issuance of Writ of Certiorari calling for the records relating to C.P.Nos.8, 10, 7, 9 & 6 of 2015 respectively on the file of Central Government Industrial Tribunal cum Labour Court, Chennai, the 2nd respondent and quash the order dated 18.03.2016.



W.P.Nos.7743 to 7747 of 2017

In all W.P's.:

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For Petitioners : Mr.M.Vijay Anand

For Respondents : Mr.R.Pandian, for R1
R2 – Labour Court

COMMON ORDER

Since the issue involved in all these Writ petitions are interconnected, they are disposed of by way of this common order.

2. These Writ Petitions have been filed seeking quashment of the common order dated 18.03.2016 made in C.P.Nos.8, 10, 7, 9 & 6 of 2015 respectively on the file of the 2nd respondent/Central Government Industrial Tribunal cum Labour Court, Chennai, whereby and whereunder, the Tribunal held that the respective 1st respondent are entitled to overtime allowance for the hours for which they have worked above the period of 8 hours for which, they have to work under the classification 'continuous'.

3. For brevity, the petitioners in all these Writ petitions are hereinafter referred to as the management-Southern Railways and the 1st respondent in all these Writ petitions are hereinafter referred to as the employees.



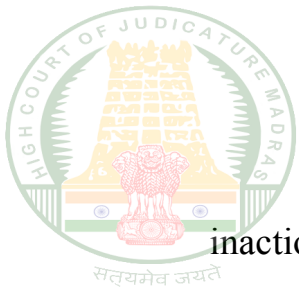
W.P.Nos.7743 to 7747 of 2017

4. Heard learned counsel on either side and perused the materials available on record.

5. The employees herein, who were working at various Railway Stations as Station Masters at the relevant point of time, claimed Over Time Wages for the periods they worked in the concerned Railway Stations for more hours than permitted under the classification of the term continuous'.

6. According to the employees, as per Section 130 of the Railways Act read with Rule 7 of Railways Servants (Hours of Work and Period of Rest) Rules, 2005, services under the Railways for the purpose of regulation of hours of work and period of rest is classified into four groups viz. continuous, essentially intermittent, intensive and excluded. Employment of the Railway Servant is continuous except when it is excluded or has been declared to be essentially intermittent or intensive. The employment of the Railway Servant can be declared as essentially intermittent only if his daily duty hours which should be assumed to be 12 hours per day include one period of inaction of not less than 1 hour or two such periods of not less than half an hour each or various periods of inaction including the period of

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inaction aggregating 50% or more during which he is not generally called upon to display either physical activity or sustained attention. The 2nd petitioner herein, the Chief Personnel Officer is said to be the authority competent to decide under which the classifications referred to above, the posts are to be included.

7. The grievance of the employees is that though they were working in a post, the job of which is continuous in nature, the 4th petitioner without any authority re-classified it as essentially intermittent and the 2nd petitioner ratified this order also and on account of this, they had to work for 12 hours rather than 8 hours. The re-classifications were in respect of the posts of Station Masters of Vellianai, Palayam and Eriodu by order dated 03.02.2000. The employees have been working as Station Masters at some or other of these Stations after the 2nd Petitioner had re-classified the post as essentially intermittent.

8. It appears that the employees seem to have been making representations before the authorities against the re-classification. They have stated in the petition that on their representation, the Labour

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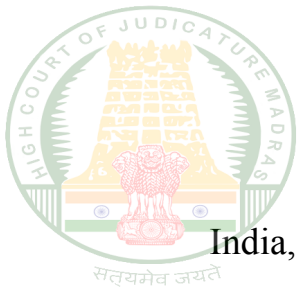


W.P.Nos.7743 to 7747 of 2017

Enforcement Officer had conducted job analysis and submitted a proposal to restore the classification as continuous. The Officer had stated in the proposal that the re-classification as intermittent by the 4th petitioner is not correct and warrants re-classification immediately. This report was intimated to the Central Labour Commissioner, Chennai and on the basis of this, he had directed the Railway Administration to restore the classification from essentially intermittent to the original classification of continuous. This was done by the Management and it ordered a Joint Job Analysis to be conducted by Labour Enforcement Officer, Trichy along with the officials of the Management. On the basis of this, a job analysis was conducted. The team who conducted the job analysis also found that the classification as continuous should be restored. Even thereafter, as the Management was not willing to revert to the original classification, an appeal was preferred to the Joint Ministry, Ministry of Labour and Employment who is the Appellate Authority against the Joint Job Analysis Report. However, the Appellate Authority dismissed the appeal by order dated 20.03.2013.

9. Therefore, it is clear that by virtue of order dated 20.03.2013 passed by the Appellate Authority, viz., the Joint Secretary, Government of

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India, Ministry of Labour & Employment, New Delhi, the conversion of

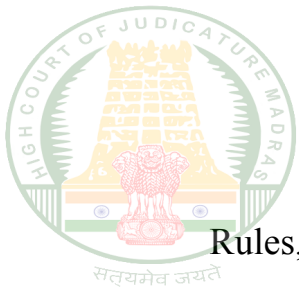
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'essentially intermittent' to 'continuous' has been given effect only from 20.03.2013 and thereby, the employees can claim overtime allowance only on and from 20.03.2013 only. But in the present case, the employees have claimed overtime allowance for the respective various periods fell between 2000 and 2013, i.e. with retrospective effect.

10. It is pertinent to note that the employees have not challenged the order dated 06.08.2013 passed by the Chief Personnel Officer communicating that the classification from 'essentially intermittent' to 'continuous' would be given effect to 20.03.2015 only.

11. The Tribunal, however, allowed the claims of the employees with retrospective effect, relying upon the provisions of Railway Servants (Hours of Work and Period of Rest) Rules, 2005, but it is pertinent to note that the genesis for action of change in classification appears to have been started in the year 2000 (as could be seen from the claims of the employees), during the said period, the erstwhile Rules, viz., Railway Servants (Hours of Employment) Rules, 1961 were prevailing and as per Rule 3 of the said

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W.P.Nos.7743 to 7747 of 2017

Rules, 1961, the appellate Authority and the authority of the management are empowered to declare the employment of a railway servant as intensive or essentially intermittent or continuous and hence, once the appellate authority, viz., the Chief Personnel Officer/ the 2nd petitioner herein, has declared and approved the reclassification of hours of employment of Station Masters of Velliyanai, Palayam and Eriyodu stations from 'essentially intermittent' to 'continuous' with effect from 20.03.2013 and therefore, the employees are entitled to claim overtime allowance with effect from 20.03.2013.

12. Further, even as per Rule 8(3) of the Railway Servants (Hours of Work and Period of Rest), Rules, 2005, the employees have to establish that they worked for 48 hours as continuous, but in the present case, the employees have not satisfied the criteria prescribed in order to claim overtime wages. Further, the employees have not taken any steps to produce Form-A Register pertaining to their over time work during relevant periods in order to establish their continuous work for more than 48 hours and in fact, they are not having any pre-existing right to claim over time wages.



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13. Therefore, as rightly contended by the learned counsel for the Management-Souther Railways, since the genesis for action of change in classification appears to have been started in the year 2000 (as could be seen from the claims of the employees), which ended by the order of the appellate authority dated 20.03.2013 declaring the reclassification of hours of employment from essentially intermittent to continuous with effect from 20.03.2013 and thereby, the employees are entitled to claim overtime allowance only from 20.03.2013 and they cannot seek with retrospective effect. Thereby, this Court has no hesitation to set aside the impugned order.

14. Accordingly, these Writ Petitions stand allowed and the common order dated 18.03.2016 made in C.P.Nos.6 to 10 of 2015 is hereby set aside. However, liberty is granted to the employees to workout their remedy in the manner known to law. No costs. Consequently, the connected miscellaneous petitions are closed.

21.04.2025
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Speaking Order : Yes/No
Index : Yes/ No
NCC : Yes/ No

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W.P.Nos.7743 to 7747 of 2017

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1. The Union of India,
Rep. by its General Manager,
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Park Town, Chennai – 3.
2. The Chief Personnel Officer,
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Park Town, Chennai – 600 003.
3. The Senior Divisional Personnel Officer,
Salem Division, Divisional Railway Manager's Office,
Southern Railway, Salem – 636 005.
4. The Senior Divisional Personnel Officer,
Palghat Division, Divisional Railway Manager's Office,
Southern Railway, Palghat.
5. The Presiding Officer,
Central Government Industrial Tribunal Cum Labour Court,
Chennai – 600 006.



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W.P.Nos.7743 to 7747 of 2017

M.DHANDAPANI, J.

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W.P.Nos.7743 to 7747 of 2017
and
WMP.Nos.8465 to 8473 of 2017
(2/2)

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W.P.Nos.7743 to 7747 of 2017

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 21.04.2025

CORAM

THE HONOURABLE MR.JUSTICE M.DHANDAPANI

WMP.Nos.28450 to 28452, 28454 & 28455 of 2023

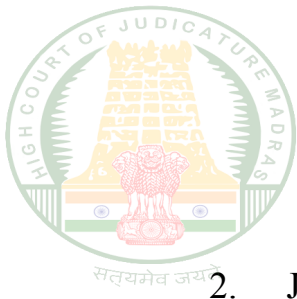
in

W.P.Nos.7743 to 7747 of 2017

1. The Union of India,
Rep. by its General Manager,
Southern Railway,
Park Town, Chennai – 3.
2. The Chief Personnel Officer,
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Park Town, Chennai – 600 003.
3. The Senior Divisional Personnel Officer,
Salem Division, Divisional Railway Manager's Office,
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4. The Senior Divisional Personnel Officer,
Palghat Division, Divisional Railway Manager's Office,
Southern Railway, Palghat. ...Petitioners in all WMP's.

Vs.

1. Shri.Kapil Kumar
Ex. Station Master, Eriodu Railway Station,
Present Station Master, Banpas Railway Station,
Village & Po – Belari, Dist. Burdwan,
West Bengal – 713 141. ...1st Respondent in WMP.No.28450 of 2023



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2. J.Sundara Raja,
Retired Station Superintendent,
2/470, Jeevanesan Nagar, Thamaraipadi,
Dindigul – 624 005. ...1st Respondent in WMP.No.28451 of 2023
3. Shri.M.Sadiqu Ali Khan
Retired Station Master,
34/46, Kilethar Street, Dig Chowk,
Trichy – 620 002. ...1st Respondent in WMP.No.28452 of 2023
4. C.Periyasamy,
Station Superintendent,
Palayam Railway Station,
Salem Division, Palayam,
Dindigul (Dt) – 624 620. ...1st Respondent in WMP.No.28454 of 2023
5. S.Ignatius Xavier,
Retired Superintendent,
Palayam Railway Station,
Salem Division, Palayam,
Dindigul Dt. – 624 620. ...1st Respondent in WMP.No.28455 of 2023
6. The Presiding Officer,
Central Government Industrial Tribunal
Cum Labour Court,
Chennai – 600 006. ...2nd Respondent in all WMP's.

COMMON PRAYER: Petitions filed seeking to restore the main Writ petitions and its connected Miscellaneous petitions in W.P.Nos.7743 to 7747 of 2017 which were dismissed for default on 28.07.2023 on the file of this Hon'ble Court.



W.P.Nos.7743 to 7747 of 2017

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In all WMP's.:

For Petitioners : Mr.M.Vijay Anand

For Respondents : Mr.R.Pandian, for R1

COMMON ORDER

These Writ Miscellaneous petitions have been filed seeking to restore the above Writ petitions in W.P.Nos.7743 to 7747 of 2017 which came to be dismissed for default on 28.07.2023.

2. Heard learned counsel on either side.

3. Being satisfied with the reasons stated in the affidavits filed in support of these petitions, this Court is inclined to order these Miscellaneous petitions.

4. Accordingly these Writ miscellaneous Petitions are ordered as prayed for and the order dated 28.07.2023 made in the above Writ petitions



W.P.Nos.7743 to 7747 of 2017

are recalled and the Writ petitions in W.P.Nos.7743 to 7747 of 2017 are

restored back to file.

21.04.2025
(1/2)

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Speaking Order : Yes/No
Index : Yes/ No
NCC : Yes/ No

To:

1. The Union of India,
Rep. by its General Manager,
Southern Railway,
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WMP.Nos.28450 to 28452, 28454 & 28455 of 2023
in
W.P.Nos.7743 to 7747 of 2017
(1/2)

21.04.2025