2026:HHC:2305

IN THE HIGH COURT OF HIMACHAL PRADESH AT SHIMLA

CWPOA No.371 of 2019
Decided on : 05.01.2026

Prakash Chand ....Petitioner

versus

Himachal Road Transport Corporation
Through its Managing Director, Shimla ...Respondents

Coram:
Hon'ble Mr. Justice Ranjan Sharma, Judge
[1]***Whether approved for reporting?***

For the petitioner: Mr. Ashok, Advocate,

For the respondents: Ms. Shubh Mahajan, Advocate,

Ranjan Sharma, Judge

Petitioner, Prakash Chand had filed Original Application No.598 of 2007 before the State Administrative Tribunal and upon abolition of the Tribunal, the matter stands transfer to this Court as **CWPOA No.371 of 2019 titled as Prakash Chand vs Himachal Road Transport Corporation and another**, seeking the following reliefs:-

(i) The respondents may kindly be directed to pay the over time allowance to the tune of Rs.2,20,125.00/- for the period 2004 to 2007 with interest @ 12% per annum from 2004 till payment.

(ii) The respondents be also directed to pay

Whether reporters of Local Papers may be allowed to see the judgment?

Rs.30,048/- as Extra wages for overtime worked by the applicant for weekly rests during the period from 01/01/04 to 31/07/2008.

FACTUAL MATRIX

2. Grievance of the petitioner is that the petitioner joined services as a driver in the Respondent-Corporation in 1983. It is averred that being a driver the Respondent-Corporation has directed the petitioner to work beyond the normal duration of eight hours per day, for which, the petitioner is entitled to an overtime allowance as spelt out in Para 6 (iii) from the year 2004 to August 2007 amounting to Rs.2,20,125/-. It is further averred that the aforesaid overtime allowance, which is borne out from *(Annexure P-1 to Annexure P-4)* has not been released to the petitioner as yet. On account of non-disbursement of the aforesaid overtime allowance, the petitioner has been made to suffer financial loss.

2(i) Second grievance of the petitioner is that the petitioner had worked for 77 days on holidays/leaves, for which, he was entitled for compensatory leaves, which were not given to him. Even during the aforesaid leave period, the petitioner was entitled for extra wages or overtime allowances in lieu of compensatory leave.

The details of period for which overtime allowance for period for which compensatory leaves were admissible are spelt out in Para 6 (iv) pertaining to the period from 01.01.2004 to 01.07.2007 amounting to Rs.30,048/- from the respondent. Third claim is for giving night allowance also.

It is in this backdrop that instant petition has been filed by the petitioner, praying for overtime allowance and extra wages as per Sections 13,19,26 of the Motor Transport Workers Act, 1961.

REPLY-AFFIDAVIT FILED BY THE RESPONDENT-CORPORATION

3. Pursuant to the issuance of notice, the Respondent-Corporation has filed a *Reply-Affidavit* dated 07.01.2008 of Divisional Manager, HRTC Shimla. *Reply-Affidavit* indicates that the petitioner had performed the work of a driver in the Respondent-Corporation. It is further averred that based on the prescribed experience, the admissible overtime allowance was calculated and released to the petitioner. Reply-Affidavit further indicates that the compensatory leaves as in (*Annexure -RB)* with the *Reply-Affidavit* were also given to the petitioner by the Corporation. It is

further averred that the overtime allowance even for the rest/compensatory leaves were given to the petitioner. *Reply-Affidavit* further indicates that even the night out allowance as per (Annexure A-RC) was given to the petitioner.

AMENDED REPLY FILED BY CORPORATION:-

4. Respondent-Corporation has filed an amended Reply-Affidavit dated 12.10.2017, stating therein, that the petitioner has been given the overtime allowance for the period, for which, he had worked beyond eight hours as per the admissible norms, by the Corporation. Claim for compensatory leaves was denied by the State-Authorities. Claim for night out allowance as per ***(Annexure R-2/A***) for the period 2004 to August 2007 was denied in the Reply-Affidavit.

5. Be that as it may. Once, the entitlement of an employee for overtime allowance is to be regulated in terms of Sections 13,19,26 of the Motor Transport Workers Act, 1961, therefore, it is for the Respondent-Corporation to examine/re-examine the matter afresh, after associating the petitioner. So far as the admissibility of "overtime allowance" in lieu of

rest/compensatory leaves and "night out allowance" is required to be examined by the respondent-corporation. Moreover, the claim (s) asserted by the petitioner are denied by the Respondent-Corporation in Reply-Affidavit and disputed facts inter se the parties cannot be gone into by the Writ Court. Material on record does not conclusively indicates the entitlement of the petitioner viz-a-viz the denial as put forth by the Respondent–Corporation.

6. In these circumstances, Learned Counsel for the petitioner submits that petitioner shall be satisfied in case, the Respondent-Corporation is directed to reconsider the matter after associating and affording a hearing to the petitioner [statement taken on record].

7. Statement made by Learned Counsel being innocuous is not disputed by Learned Counsel for the Respondent-Corporation.

DIRECTIONS

8. In these circumstances and leaving all questions in open and after taking into account the Statement of Learned Counsel for the petitioner, this Court disposes of the instant petition, with the following

directions:-

(i) As prayed, petitioner shall submit a fresh representation based on the documents already on record in the writ file and further additional documents, if any, before the Managing Director of the Respondent-Corporation within four weeks from today;

(ii) Upon receipt of representation, the RespondentNo.1Managing Director shall examine the matter, after associating the petitioner *and* affording a personal hearing to the petitioner, within six weeks thereafter;

(iii) Needless to say that Managing Director shall examine the case, in the light of the provisions of Motor Transport Workers Act, 1961 and in accordance with law;

(iv) Upon acceptance of claim, admissible benefits be released within the above period.

In aforesaid terms, instant petition and all pending miscellaneous application(s), if any, shall accordingly stand disposed of.

(Ranjan Sharma)
Judge

January 05, 2026 (meera)