



2025:CGHC:46530-DB

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

WPS No. 2325 of 2021

1. Union of India, through the General Manager, S.E.C. Railway, Bilaspur Zone, Bilaspur, Chhattisgarh 495004
2. South East Central Railway, through the General Manager, S.E.C. Railway, Bilaspur Zone, Bilaspur, Chhattisgarh 495004
3. Divisional Railway Manager, C/o S.E.C. Rly., DRM Office, Fafadih, Raipur, Chhattisgarh 492008
4. Regional Personnel Officer, C/o S.E.C. Rly., DRM Office, Fafadih, Raipur, Chhattisgarh 492008

--- Petitioners

Versus

Raghunath, Aged about 63 years (at the time of filing of the O.A), S/o Late Shri Ratan, C/o Bimla Senapati, Sirsabhata, G-Cabin, Charoda, Bhilai, District Durg, Chhattisgarh

--- Respondent

WPS No. 2340 of 2021

1. Union of India, through the General Manager, S.E.C. Railway, Bilaspur Zone, Bilaspur, Chhattisgarh 495004
2. South East Central Railway, through the General Manager, S.E.C. Railway, Bilaspur Zone, Bilaspur, Chhattisgarh 495004
3. Divisional Railway Manager, C/o S.E.C. Rly., DRM Office, Fafadih, Raipur, Chhattisgarh 492008
4. Regional Personnel Officer, C/o S.E.C. Rly., DRM Office, Fafadih, Raipur, Chhattisgarh 492008

--- Petitioners

Versus

(WPSNo.2325/2021 and thirteen other connected cases)

Kislal, Aged 60 years, S/o Late Baratu, R/o Behind Indrajeet Kirana Store, Ward No.4, Dadar Charoda, P.O BMY, District Durg 490025

--- **Respondent**

WPS No. 2341 of 2021

1. Union of India, through the General Manager, S.E.C. Railway, Bilaspur Zone, Bilaspur, Chhattisgarh 495004
2. South East Central Railway, through the General Manager, S.E.C. Railway, Bilaspur Zone, Bilaspur, Chhattisgarh 495004
3. Divisional Railway Manager, C/o S.E.C. Rly., DRM Office, Fafadih, Raipur, Chhattisgarh 492008
4. Regional Personnel Officer, C/o S.E.C. Rly., DRM Office, Fafadih, Raipur, Chhattisgarh 492008

--- **Petitioners**

Versus

Durga Biswas, W/o Late Shri V.K. Biswas, aged 43 yrs, R/o Qr.No.102 A, Railway Colony, Bhilai-3, Post Bhilai-3, District Durg, Chhattisgarh 490021

--- **Respondent**

WPS No. 2342 of 2021

1. Union of India, through the General Manager, S.E.C. Railway, Bilaspur Zone, Bilaspur, Chhattisgarh 495004
2. South East Central Railway, through the General Manager, S.E.C. Railway, Bilaspur Zone, Bilaspur, Chhattisgarh 495004
3. Divisional Railway Manager, C/o S.E.C. Rly., DRM Office, Fafadih, Raipur, Chhattisgarh 492008
4. Regional Personnel Officer, C/o S.E.C. Rly., DRM Office, Fafadih, Raipur, Chhattisgarh 492008

--- **Petitioners**

Versus

Guha, Aged 55 years, S/o Tijau, R/o Qr.No.84 D, BMY Charoda, District Durg, Chhattisgarh 490025

--- **Respondent**

(WPSNo.2325/2021 and thirteen other connected cases)

WPS No. 2343 of 2021

1. Union of India, through the General Manager, S.E.C. Railway, Bilaspur Zone, Bilaspur, Chhattisgarh 495004
2. South East Central Railway, through the General Manager, S.E.C. Railway, Bilaspur Zone, Bilaspur, Chhattisgarh 495004
3. Divisional Railway Manager, C/o S.E.C. Rly., DRM Office, Fafadih, Raipur, Chhattisgarh 492008
4. Regional Personnel Officer, C/o S.E.C. Rly., DRM Office, Fafadih, Raipur, Chhattisgarh 492008

--- **Petitioners**

Versus

Revati Karwa, W/o Baner, Aged about 46 years, C/o Store 12, Near Shiv Mandir, Bhilai-3, District Durg, Chhattisgarh 490021

--- **Respondent**

WPS No. 2486 of 2021

1. Union of India, through the General Manager, S.E.C. Railway, Bilaspur Zone, Bilaspur, Chhattisgarh 495004
2. South East Central Railway, through the General Manager, S.E.C. Railway, Bilaspur Zone, Bilaspur, Chhattisgarh 495004
3. Divisional Railway Manager, C/o S.E.C. Rly., DRM Office, Fafadih, Raipur, Chhattisgarh 492008
4. Regional Personnel Officer, C/o S.E.C. Rly., DRM Office, Fafadih, Raipur, Chhattisgarh 492008

--- **Petitioners**

Versus

Arjun, Aged 64 years, S/o Late Jabar Singh, R/o Village Rahenbhata, Post Office Malishira, Police Station Titlagarh, District Bolangir (Orissa) 767033

--- **Respondent**

WPS No. 2488 of 2021

1. Union of India, through the General Manager, S.E.C. Railway, Bilaspur Zone, Bilaspur, Chhattisgarh 495004
2. South East Central Railway, through the General Manager, S.E.C. Railway, Bilaspur Zone, Bilaspur, Chhattisgarh 495004

(WPSNo.2325/2021 and thirteen other connected cases)

3. Divisional Railway Manager, C/o S.E.C. Rly., DRM Office, Fafadih, Raipur, Chhattisgarh 492008
4. Regional Personnel Officer, C/o S.E.C. Rly., DRM Office, Fafadih, Raipur, Chhattisgarh 492008

--- **Petitioners**

Versus

Devanand, Aged 57 years, S/o Ravi, R/o Qr.No.604 C, Zone-I, BMY Charoda, Bhilai, District Durg, C.G. 490025

--- **Respondent**

WPS No. 2505 of 2021

1. Union of India, through the General Manager, S.E.C. Railway, Bilaspur Zone, Bilaspur, Chhattisgarh 495004
2. South East Central Railway, through the General Manager, S.E.C. Railway, Bilaspur Zone, Bilaspur, Chhattisgarh 495004
3. Divisional Railway Manager, C/o S.E.C. Rly., DRM Office, Fafadih, Raipur, Chhattisgarh 492008
4. Regional Personnel Officer, C/o S.E.C. Rly., DRM Office, Fafadih, Raipur, Chhattisgarh 492008

--- **Petitioners**

Versus

Ramnath (Died) Through Legal Heirs

1.A Joniya Devi, W/o Late Ramnath, Aged about 68 years

1.B Rakesh Sharma, S/o Late Ramnath, Aged about 35 years

1.C Harkesh Sharma, S/o Late Ramnath, Aged about 40 years

1.D Kameshwar Sharma, S/o Late Ramnath, Aged about 49 years

1.E (a) Maya Sharma, W/o Late Manoj Sharma, Aged about 40 years

(b) Ankit Sharma, S/o Late Manoj Sharma, Aged about 17 years

(c) Rishi Sharma, S/o Late Manoj Sharma, Aged about 14 years

Both are minors through their natural guardian mother Maya Sharma

(WPSNo.2325/2021 and thirteen other connected cases)

All are R/o Sector-11, Zone-2, Balaji Nagar, Khursipar, Bhilai, District Durg, Chhattisgarh-490021.

--- **Respondents**

WPS No. 2508 of 2021

1. Union of India, through the General Manager, S.E.C. Railway, Bilaspur Zone, Bilaspur, Chhattisgarh 495004
2. South East Central Railway, through the General Manager, S.E.C. Railway, Bilaspur Zone, Bilaspur, Chhattisgarh 495004
3. Divisional Railway Manager, C/o S.E.C. Rly., DRM Office, Fafadih, Raipur, Chhattisgarh 492008
4. Regional Personnel Officer, C/o S.E.C. Rly., DRM Office, Fafadih, Raipur, Chhattisgarh 492008

--- **Petitioners**

Versus

K. Bhaskarudu (Died) Through Legal Heir

1(A) K. Krishnaveni, W/o Late Bhaskardu, Aged about 68 years, R/o C/o Shri J.M. Lingam, Old Bhilai, Post Bhilai-3, District Durg, Chhattisgarh.

--- **Respondent**

WPS No. 2511 of 2021

1. Union of India, through the General Manager, S.E.C. Railway, Bilaspur Zone, Bilaspur, Chhattisgarh 495004
2. South East Central Railway, through the General Manager, S.E.C. Railway, Bilaspur Zone, Bilaspur, Chhattisgarh 495004
3. Divisional Railway Manager, C/o S.E.C. Rly., DRM Office, Fafadih, Raipur, Chhattisgarh 492008
4. Regional Personnel Officer, C/o S.E.C. Rly., DRM Office, Fafadih, Raipur, Chhattisgarh 492008

--- **Petitioners**

Versus

Balakram, Aged 51 years, S/o Late Sadashiv, R/o Qr.No.D-620, Zone-I, Charoda, Bhilai, District Durg 490025.

--- **Respondent**

(WPSNo.2325/2021 and thirteen other connected cases)

WPS No. 2518 of 2021

1. Union of India, through the General Manager, S.E.C. Railway, Bilaspur Zone, Bilaspur, Chhattisgarh 495004
2. South East Central Railway, through the General Manager, S.E.C. Railway, Bilaspur Zone, Bilaspur, Chhattisgarh 495004
3. Divisional Railway Manager, C/o S.E.C. Rly., DRM Office, Fafadih, Raipur, Chhattisgarh 492008
4. Regional Personnel Officer, C/o S.E.C. Rly., DRM Office, Fafadih, Raipur, Chhattisgarh 492008

--- **Petitioners**

Versus

B. Laxmi, Aged 65 yrs, W/o Late B. Krishnamurty, R/o Jagdamba Chowk, Purana Bhilai, Post Bhilai-3, District Durg, Chhattisgarh 490021.

--- **Respondent**

WPS No. 2531 of 2021

1. Union of India, through the General Manager, S.E.C. Railway, Bilaspur Zone, Bilaspur, Chhattisgarh 495004
2. South East Central Railway, through the General Manager, S.E.C. Railway, Bilaspur Zone, Bilaspur, Chhattisgarh 495004
3. Divisional Railway Manager, C/o S.E.C. Rly., DRM Office, Fafadih, Raipur, Chhattisgarh 492008
4. Regional Personnel Officer, C/o S.E.C. Rly., DRM Office, Fafadih, Raipur, Chhattisgarh 492008

--- **Petitioners**

Versus

Dasarath, Aged 57 years, S/o Late Suru, R/o Qr.No.C-627, BMY Charoda, Bhilai, District Durg 490025

--- **Respondent**

WPS No. 2532 of 2021

1. Union of India, through the General Manager, S.E.C. Railway, Bilaspur Zone, Bilaspur, Chhattisgarh 495004
2. South East Central Railway, through the General Manager, S.E.C. Railway, Bilaspur Zone, Bilaspur, Chhattisgarh 495004

(WPSNo.2325/2021 and thirteen other connected cases)

3. Divisional Railway Manager, C/o S.E.C. Rly., DRM Office, Fafadih, Raipur, Chhattisgarh 492008
4. Regional Personnel Officer, C/o S.E.C. Rly., DRM Office, Fafadih, Raipur, Chhattisgarh 492008

--- **Petitioners**

Versus

Suresh, Aged 56 yrs, S/o Shri Raju, R/o Qr.No.95 D, Bhilai-3, Post Bhilai-3, District Durg, Chhattisgarh 490021.

--- **Respondent**

AND

WPS No. 2537 of 2021

1. Union of India, through the General Manager, S.E.C. Railway, Bilaspur Zone, Bilaspur, Chhattisgarh 495004
2. South East Central Railway, through the General Manager, S.E.C. Railway, Bilaspur Zone, Bilaspur, Chhattisgarh 495004
3. Divisional Railway Manager, C/o S.E.C. Rly., DRM Office, Fafadih, Raipur, Chhattisgarh 492008
4. Regional Personnel Officer, C/o S.E.C. Rly., DRM Office, Fafadih, Raipur, Chhattisgarh 492008

--- **Petitioners**

Versus

Devanand, Aged 57 years, S/o Ratiram, R/o Ward No.21, Indra Nagar, Near Shukla Aata Chakki, BMY Charoda, District Durg 490025

--- **Respondent**

For Petitioners : Mr. Ramakant Mishra, Deputy Solicitor General of India, Mr. Rishabhdeo Singh, Advocate and Mr. Bhupendra Pandey, Central Government Counsel.

For Respondents : Mr. Sudeep Johri and Mr. J.K. Gupta, Advocates.

Division Bench: -

Hon'ble Shri Sanjay K. Agrawal and
Hon'ble Shri Radhakishan Agrawal, JJ.

Order on Board
(11/09/2025)

Sanjay K. Agrawal, J.

1. This order will govern the disposal of WPS No.2325/2021 and thirteen other connected writ petitions.
2. Since common question of law and fact is involved in all these writ petitions, they were clubbed together, heard together and are being disposed of by this common order.
3. This batch of writ petitions questions legality, validity and correctness of order dated 20-11-2019 (Annexure P-2) passed by the Central Administrative Tribunal, Jabalpur Bench, Circuit sittings: Bilaspur, by which the original applications filed by the respondents herein have been allowed and order dated 4-3-2015 has been set aside and the Union of India has been directed to make payment of overtime allowance to the railway servants/respondents herein as claimed by them within 60 days. These writ petitions eventually also question legality, validity and correctness of order dated 7-12-2020 (Annexure P-1) passed by the Central Administrative Tribunal, Jabalpur Bench, Jabalpur in the review applications filed by the Union of India, by which the learned CAT has dismissed the review applications finding no merit.

(For the sake of convenience, W.P.(S)No.2340/2021 is being taken as lead case.)

4. The respondent herein/original applicant was appointed on 24-12-1972 and stood retired on 3-9-2012 from the Department of Engineering. It is the case of the respondent/original applicant that

(WPSNo.2325/2021 and thirteen other connected cases)

after the stipulated period of duty, he had worked overtime between 2007 to 2010 for which overtime allowance was payable, but it was not paid and thereafter, he along with other original applicants filed original application on 18-4-2017 claiming overtime allowance which was processed by the Personnel Branch of the Office of the Senior Divisional Personnel Officer, S.E.C. Railway, Raipur, and the claim of 19 applicants for overtime allowance was denied by the Senior Divisional Personnel Officer due to being older and belated claim by order dated 4-3-2015 leading to filing of original applications before the CAT on the ground that payment of overtime allowance is a recurring cause of action and therefore their claim is absolutely justified and further processing of the claim caused delay and laches, which the Union of India has opposed holding that the claim is stale and not available. However, pursuant to the order of CAT dated 9-10-2018, documents relating to overtime allowance were filed vide Annexure R-1 and thereafter, the matter was considered by the CAT and the CAT considered the dispute regarding non-payment of overtime allowance to the original applicants on performing extra duty hours in extra time.

5. The learned CAT relying upon the decision of the Supreme Court in the matter of **Union of India and others v. Tarsem Singh**¹ and **M.R. Gupta v. Union of India**² came to the conclusion that the Railway Department has calculated the overtime of the applicants in the year 2012 and ultimately rejected their claim in 2015 by order

¹ (2008) 8 SCC 648

² (1995) 5 SCC 628

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dated 4-3-2015 which was communicated to them on 4-6-2015, as such, the cause of action arose on 4-6-2015 and ultimately, the original applications were filed before the CAT on 18-4-2017. It has also been held by the learned CAT that claim for overtime allowance of the original applicants has been calculated on the basis demonstrable from the documents filed as Annexure R-1 and the original applicants are entitled for overtime and ultimately directed for payment of overtime allowance as claimed within 60 days against which review applications have been filed on behalf of the Union of India which have been dismissed finding no merit and against which this batch of writ petitions has been filed.

6. Mr. Ramakant Mishra, learned Deputy Solicitor General of India appearing on behalf of the petitioners herein/Union of India, would submit that the learned CAT is absolutely unjustified in granting overtime allowance to the respondents herein, as their claim suffers from delay and laches as apparent from the order dated 4-3-2015, though it has been processed by the Department of Personnel, and therefore it could not have been granted by the CAT by the impugned order which is liable to be set aside. The respondents are not entitled for overtime allowance as per Rule 7(3) of the Railway Servants (Hours of Work and Period of Rest) Rules, 2005 (for short, 'the Rules of 2005') and therefore the writ petitions deserve to be allowed and the impugned orders deserve to be set aside.
7. Mr. Sudeep Johri, learned counsel appearing on behalf of the respondents herein, would submit that the only ground that has been

(WPSNo.2325/2021 and thirteen other connected cases)

pressed into service by the Railways by order dated 4-3-2015 is on account of claim being older and belated, the respondents' claim for overtime allowance has been rejected, whereas overtime allowance is calculated by the Railways itself and therefore new ground cannot be invented while filing writ petitions before this Court. He would further submit that the learned CAT is absolutely justified in granting the applications and question of delay would not come in the way, as in view of the decision of the Supreme Court in **Tarsem Singh's** case (supra), it is a continuing wrong on the part of the Railways not to make payment of overtime allowance and the claim has been rejected only on the ground of being older and belated. As such, the ground taken relying upon Rule 7(3) of the Rules of 2005 is not applicable to the facts of the present case. In that view of the matter, the writ petitions deserve to be dismissed.

8. We have heard learned counsel for the parties and considered their rival submissions made herein-above and also gone through the record thoroughly as well as meticulously.
9. It is the case of the respondents herein that they had applied for grant of overtime allowance for the period from 2007 to 2010, they had already retired from service in between 2010 and 2015, and the overtime allowance for the period from 2007 to 2010 of as many as 19 railway servants is outstanding which was considered by the Department of Personnel of South East Central Railway which was quantified as ₹ 40,22,837/- and processed by the Department, however, it was referred to the Senior Divisional Personnel Officer,

(WPSNo.2325/2021 and thirteen other connected cases)

Raipur who refused the same on the ground of being older and belated claim which was communicated on 4-3-2015 by the Divisional Personnel Officer to the Senior Divisional Engineer (Co-Ord), SEC Railway, Raipur to be informed to the respondents herein/ concerned railway staff and which states as under: -

क्र: E/PB/R/BIL/2012/102

दिनांक: 04.03.2015

प्रति

The Sr Divisional Engineer (Co – Ord)
S.E.C. Railway, Raipur

विषय: Non – Payment of Over Time Allowance for the period from Year – 2007 to 2010 to the staff of SSE/W/WS/BMY.

The outstanding Over Time Allowance for the period from 2007 to 2010 in favor of 19 staffs of SSE/W/WS/BMY amounting ₹ 40,22,837/- was processed by the Personnel Branch in the light of existing provisions. The details are as under:

- | | |
|----------------------------------|----------------------------|
| 1. Devanand S/o Ravi, FPOM | 11. K. Bhaskarudu, FPOM |
| 2. Devanand S/o Rati Ram, Sr VO | 12. Ramnath, FPOM |
| 3. Dasarath, Helper Gr.I | 13. Raghunath, FPOM |
| 4. Sukhan, Helper Gr.I | 14. Arjun, FPOM |
| 5. B Krishna Murthy, Helper Gr.I | 15. Suresh, VO |
| 6. Kislal, Helper Gr.I | 16. Kameswar, VO |
| 7. Benar, Sr VO | 17. Govind, FPOM |
| 8. Guha, Sr VO | 18. Manohar Majhi, FPOM |
| 9. Balak Ram, FPOM | 19. Viswanath, Helper Gr.I |
| 10. B.K. Biswas, FPOM | |

The instant claim has been regretted by the Competent Authority (Sr DPO/R) due to being older and belated claim for which remedies are not practical and hence could not be feasible for further processing.

This may kindly be intimated to the concerned staff through proper channel from your end.

सही / –
(संग्राम सोरेन)
मंडल कार्मिक अधिकारी
कृते वरिष्ठ मंडल कार्मिक अधिकारी

(WPSNo.2325/2021 and thirteen other connected cases)

10. The aforesaid order dated 4-3-2015 was received by the respondents herein on 4-6-2015 which led to filing of original applications by them before the CAT. The aforesaid question of delay was considered by the CAT in paragraph 19 of its order and it has been held that “there is a continuous wrong which is being done by the respondent-department” by observing as under: -

“19. The applicant has relied upon the judgments passed by Hon’ble Apex Court in the matter of **Union of India and others vs. Tarsem Singh** (2008) 8 SCC 648, **State of Madhya Pradesh and others vs. Yogendra Shrivastava** (2011) 1 SCC (L&S) 251; **M.R. Gupta vs. Union of India and others** (1995) 5 SCC 628; wherein the Hon’ble Apex Court has held that if there is continuous wrong being done by the respondents then denial of benefits occurs every month when the salary is paid. So in the instant case there is a continuous wrong which is being done by the respondent-department. Moreover, the respondent-department has calculated the overtime of the applicant in the year 2012 and which has been put before the concerned higher official and ultimately rejected in 2015. So, fresh cause of action arose on 04.06.2015.”

11. In **Tarsem Singh’s** case (supra) relied upon by the respondents herein, the Supreme Court has clearly held that if the issue relates to payment or refixation of pay or pension, relief may be granted in spite of delay as it does not affect the rights of third parties, and observed as under: -

“7. To summarise, normally, a belated service related claim will be rejected on the ground of delay and laches (where remedy is sought by filing a writ petition) or limitation (where remedy is sought by an application to the Administrative Tribunal). One of the exceptions to the said rule is cases relating to a continuing wrong. Where a service related claim is based on a continuing wrong, relief can be granted even if there is a long delay in seeking remedy, with reference to the date on which the continuing wrong commenced, if such continuing wrong creates a continuing source of injury. But there is an

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exception to the exception. If the grievance is in respect of any order or administrative decision which related to or affected several others also, and if the reopening of the issue would affect the settled rights of third parties, then the claim will not be entertained. For example, if the issue relates to payment or refixation of pay or pension, relief may be granted in spite of delay as it does not affect the rights of third parties. But if the claim involved issues relating to seniority or promotion, etc., affecting others, delay would render the claim stale and doctrine of laches/limitation will be applied. Insofar as the consequential relief of recovery of arrears for a past period is concerned, the principles relating to recurring/successive wrongs will apply. As a consequence, the High Courts will restrict the consequential relief relating to arrears normally to a period of three years prior to the date of filing of the writ petition.”

12. In the instant case, the railway authorities themselves have processed the claim case of the respondents herein for payment of overtime allowance, however, on the ground of delay and laches, the Senior Divisional Personnel Officer, Raipur recorded the claim of the respondents being older and belated claim, which was challenged in the original applications in which the learned CAT has rightly held that it is a continuous wrong which is being done by the Department and thus recurring cause of action arose and therefore since non-payment of overtime allowance is a recurring and continuous wrong, the Department i.e. the railway authorities are not justified in refusing to make payment of overtime allowance, as the only ground for refusal is older and belated claim. Since the Railways themselves are responsible for not making payment, as already held, it is a recurring and continuous wrong, the learned CAT is absolutely justified in holding that the respondents herein are entitled for overtime allowance and delay in making claim by them or delay in

(WPSNo.2325/2021 and thirteen other connected cases)

making payment would not come in the way of making payment and the plea based on Rule 7(3) of the Rules of 2005 is not available to the petitioners as by order dated 4-3-2015, the claim of the respondents was refused only on the ground of older and belated claim. Accordingly, we do not find any merit in these writ petitions. The writ petitions are liable to be and are hereby dismissed leaving the parties to bear their own costs. However, the Railway authorities are directed to further process the claim of the respondents herein for payment of overtime allowance and would make payment within a period of 45 days from the date of receipt of a copy of this order. No cost.

Sd/-
(Sanjay K. Agrawal)
JUDGE

Sd/-
(Radhakishan Agrawal)
JUDGE

Soma