



2026:DHC:3244-DB



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

+ W.P.(C) 10749/2019

**SANJAY KUAMR**

.....Petitioner

Through: Mr. L K Singh, Adv.

versus

**GOVT. OF NCT OF DELHI AND ANR.** .....Respondents

Through: Mrs. Avnish Ahlawat, SC for  
GNCTD Services with Mr. Nitesh Kumar  
Singh, Ms. Tania Ahlawat, Mr. Uday Singh  
Ahlawat, Ms. Aliza Alam and Mr. Mohnish  
Sehrawat, Advs.

**CORAM:**

**HON'BLE MR. JUSTICE C. HARI SHANKAR**

**HON'BLE MR. JUSTICE OM PRAKASH SHUKLA**

**ORDER(ORAL)**

**15.04.2026**

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**C. HARI SHANKAR, J.**

1. This writ petition assails order dated 15 May 2019 passed by the Central Administrative Tribunal<sup>1</sup> in OA 4091/2017.

2. The petitioner, who was the applicant before the Tribunal, was employed as a Foot Constable in the Transport Department of the GNCTD<sup>2</sup>. The claim which he raised before the Tribunal was for payment of night duty allowance for the period August to September 2013, during which he was asked to perform night duty. The claim

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<sup>1</sup> "the Tribunal", hereinafter



was predicated on Office Memorandum<sup>3</sup> dated 4 October 1989 issued by the Department of Personnel and Training<sup>4</sup>.

3. The Tribunal has rejected the petitioner's claim on two grounds. Firstly, the Tribunal has held that the DOPT OM dated 4 October 1989 was not applicable to employees of the GNCTD. The Tribunal has observed that the petitioner has not produced any document which would entitle him to night duty allowance.

4. Secondly, the Tribunal has observed that the petitioner had not worked during the day and that, therefore, he could not be said to have worked extra during the night so as to entitle him to night duty allowance.

5. Aggrieved by the decision of the Tribunal, the petitioner is before us under Article 226 of the Constitution of India.

6. We do not deem it necessary to enter into the second ground on which the Tribunal has held against the petitioner as, in our view, the petitioner has not been able to premise his claim to night duty allowance on any enforceable rule, regulation or executive instructions.

7. *Ubi jus ibi remedium.* Absent a right, no remedy is available.

8. The DOPT OM dated 4 October 1989 was applicable, even as

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<sup>2</sup> Government of National Capital Territory of Delhi

<sup>3</sup> "OM" hereinafter

<sup>4</sup> "DoPT", hereinafter



per the endorsement of copies thereunder, only to ministries and departments of the Government of India. This OM was subsequently followed by Office Order dated 5 May 1994, which dealt only with night duty allowance to Resident Clerks in the Central Secretariat and Allied Offices and Peons attached to them.

**9.** Mr. L.K. Singh, learned Counsel, who appears for the petitioner submits that the very fact that copies of this OM were marked to all State Governments and Union Territories indicated that the OM was applicable to all employees of State Governments and Union Territories.

**10.** Merely marking of a copy to the State Governments and Union Territories would not *ipso facto* render the OM applicable to employees thereof. The OM is clear and categorical. It applies only to “Resident (Night Duty) Staff in the Central Secretariat and Allied Offices”.

**11.** We are in agreement with the Tribunal, therefore, that the petitioner has not been able to cite any rule, regulation or applicable executive instruction which would entitle him to night duty allowance.

**12.** Absent any such provision, it would not be open either to the Tribunal or to this Court to grant night duty allowance to the petitioner.



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**13.** We, therefore, find no error in the decision of the Tribunal to reject the petitioner's claim. The writ petition is, accordingly, dismissed.

**C. HARI SHANKAR, J**

**OM PRAKASH SHUKLA, J**

**APRIL 15, 2026/gunn**