

Central Administrative Tribunal, Principal Bench

O.A. Nos. 1458 of 1998

New Delhi, this the ¹⁴~~14~~ day of November, 2000

Hon'ble Mr. Kuldeep Singh, Member (J)
Hon'ble Mr. S.A.T. Rizvi, Member (A)

1. Shri P.K. Singh
R/o 84/74, WEA, Karol Bagh,
New Delhi.
2. Shri H.N.J. Singh
R/o C-II/II, Ganga Triveni Apartment,
Plot No.24/1, Sector-9
Rohini, Delhi.
3. Shri S.S. Washist
R/o 16/7, New Rajinder Nagar
New Delhi.

- Applicants

By Advocate Shri G. Lall.

Versus

1. Union of India through the
Secretary, Ministry of External
Affairs, South Block,
New Delhi.
2. The Director (North)
North Division,
Ministry of External Affairs,
South Block,
New Delhi. . . Respondents

By Advocate Shri V.S.R. Krishna.

O R D E R

By Hon'ble Mr. Kuldeep Singh, Member (J)

This is a joint application filed by the applicants who are working as Engineers in the Ministry of External Affairs on deputation from the CPWD are presently posted at Dharan Nepal for supervising certain projects. It is stated that when the applicants were sent on deputation the terms of the deputation contained in the list supplied by the respondents to the CPWD was consented by the applicants but subsequently the respondents revised the terms of deputation to the disadvantage of the

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applicants with regard to the Children Education Allowance (hereinafter referred to as CEA) without obtaining any consent from the applicants which resulted in financial loss to the applicants.

2. It is further pleaded that as per para 6 of Deputation Terms the Children's Education Allowance was as follows:-

"Tuition & Hostel charges at Rs. 500/- per month per child upto the age of 21 years restricted to two children".

As per the aforesaid provision of children's Education Allowance of Rs.500/- was to be paid per child, upto the children, to all the members of Construction Management Team (hereinafter referred to as CMT), irrespective of the fact whether the wards of the members of the team are staying at Delhi or Dharan."

3. Thereafter the CEA was enhanced from Rs.500 to Rs.2500 per child w.e.f. 1.11.1995 Vide letter dated 5.2.1996, Annexure C. However, subsequently the respondents arbitrarily again revised the applicability of revised CEA to the members of the CMT and without the consent of the applicants made the changes that the revised CEA at the rate of Rs.2500/- will be applicable to those members of the CMT whose wards are studying in India and the children of those members whose wards are studying in Dharan, they will be governed by IFS (PLCA) Rules which are annexed at Annexure-D and thereafter the applicants are being paid only at the rat of Rs.236/- per child. Against this, number of representations were made but to no effect. To challenge this change of terms, the applicants allege that first of all the terms have been revised unilaterally which violates the agreed terms.

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4. It is further stated that at the first instance the quantum of CEA has been revised by the respondents and made uniformly applicable to all the members of CMT and subsequently it has become unreasonable as the changed CEA has created discrimination among the similarly situated Officers so it is prayed that the respondents have not only violated the agreed terms but have varied the terms of CEA to the disadvantage of the applicants and have further enhanced it to Rs.2500/- per month per child irrespective of the place of study of their wards.

5. The respondents contested the O.A. and they admit that prior to 1.11.1995 an amount of Rs.500/- was paid to the deputationists irrespective of the fact whether their children were studying in India or Dharan. However, consequent on the setting up of the Delhi Public Schools at Dharan, the scheme was liberalised by effecting a five fold increase in the allowances enhancing it to Rs.2500/- per month in case of children studying in India, besides extending to the deputationists, the discretion to admit their wards at Delhi Public School, Dharan or in India. In case the deputationists were to admit their children in DPS Dharan, then the CEA was to be regulated in accordance with the provisions of Annexure-VIII of the Indian Foreign Service (Pay, Leave and Compensatory Allowance)Rules. According to this, most of the school fee was to be paid by the Project Implementation Authority directly to the school subject to a mandatory deduction of Rs.200/- per month from the concerned deputationists.

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6. It is further stated that Delhi Public School Dharan is affiliated to CBSE and there is also a provision that on return of deputationists to India, their wards would be admitted to Delhi Public School R.K. Puram, New Delhi and this facility is exclusively meant for deputationists whose children are studying at Dharan. The extension of the provision of IFS (PLCA) Rules also provide for protection as mandatory deductions would continue to be Rs.200/- per month. It is denied that there is any discrimination whatsoever against the applicants and there is no violation of Article 14 of the Constitution of India.

7. As far as variations in terms and conditions are concerned, it is pointed out that variations have been made regarding various terms with regard to revision of pay and Compensatory allowance and whether such benefits have been extended to the applicants and it is only with regard to the CEA that the rules of IFS (PLCA) have been made applicable since the education facility has been provided at Dharan itself and the said rules have been extended with the objective of providing protection against any subsequent increase in fee in Delhi Public School at Dharan as mandatory fee deductions would continue to be Rs.200/- per month.

8. It is also denied that the revision in respect of CEA is arbitrary.

9. We have heard the learned counsel for the parties and have gone through the records of the case.

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10. The plea taken by the applicants is that the terms have been revised unilaterally without taking their consent. On this aspect we may mention that as regards the terms of pay and other allowance are concerned, Government servant always get a change in pay and allowances with the rise and fall of economy index and from time to time Pay Commissions are also constituted to revise the pay and allowances and all this is done without obtaining the consent of the employees. In this case also when the applicants were sent on deputation to Dharan, their terms included the payment of CEA at the rate of Rs.500/- per month but it was revised unilaterally and was increased to Rs.2500/- per month and since after the setting up of Delhi Public School at Dharan the Government has enforced the IFS (PLCA) Rules and that has been done to provide better education to the children of deputationists so that cannot be said to be done in any arbitrary or capricious manner. Since the IFS (PLCA) Rules are being applied to all similarly situated persons in a uniform manner so we find that there is no discrimination.

11. As far as variations of CEA is concerned it is stated that the same should be applied uniformly. In this regard we may mention that the Government has always been revising pay scales and allowances of its own without obtaining the consent of the individual employee so we find that it has not violated any agreement to the disadvantage of the applicants. Moreover, the terms in fact have not been varied, rather an option has been given to the employees to admit their children at Delhi Public School, Dharan or they may study elsewhere. The application of IFS(PLCA) Rules has been made applicable in case of those

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employees who want their children to study in Delhi Public School, Dharan. Thus both the options are available to the applicants.

12. Hence we do not find any reason to interfere in the OA.

13. In view of the above, OA has no merits and the same is accordingly dismissed. No costs.

S.A.T. Rizvi

(S.A.T. Rizvi)
Member (A)

Kuldeep Singh

(Kuldeep Singh)
Member (J)

/Rakesh/