

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

New Delhi, dated this the 28th August, 1998

HON'BLE MR. S.R. ADIGE, VICE CHAIRMAN (A)

O.A. No. 969 of 1998 ✓

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S/Shri

1. Vishnu Bhagwan,
S/o Shri B.M. Gautam
T.T.A.,
O/o C.G.M. ALTTC, Ghaziabad
2. A.K. Verma,
T.T.A.,
S/o Shri T. Verma,
O/o C.G.M., ALTTC, Ghaziabad.
3. R.K. Sethi, T.T.A.,
S/o Shri G.L. Sethi,
O/o C.G.M., ALTTC
Ghaziabad.
4. Vichitra Kumar,
T/Supervisor,
S/o Shri Swaroop Singh,
O/o the C.G.M., ALTTC, Ghaziabad.
5. S.K. Sagar,
T/Supervisor,
S/o Shri Swaroop Singh,
O/o the C.G.M., ALTTC, Ghaziabad.
6. R.S. Sagar, TTA,
S/o Shri Sukhram Singh,
O/o C.G.M., ALTTC, Ghaziabad.
7. Seoraj Singh, TTA,
S/o Shri Gopi Chand,
O/o C.G.M., ALTTC, Ghaziabad.
8. Ram Niwas,
T/Supervisor,
S/o Shri Het Ram,
O/o CGM, ALTTC, Ghaziabad.
9. Y.M. Singhal, TTA,
S/o Shri G.L. Singhal,
O/o C.G.M. ALTTC, Ghaziabad.
10. Bhoopandra Gaur, TTA
S/o Shri B.B. Gaur,
O/o CGM, ALTTC, Ghaziabad.
11. Binda Lal, TTA,
S/o Shri J.N. Rai,
O/o CGM, ALTTC, Ghaziabad.
12. Diwakar Mishra, TTA,
S/o late Shri B.R. Mishra,
O/o CGM, ALTTC, Ghaziabad.

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13. V.K. Chamola, Technician,
S/o Shri B.DD. Chamola,
O/o CGM, ALTTC, Ghaziabad.
14. Madan Lal, TTA,
S/o Shri R.S. Sagar,
O/o CGM, ALTTC, Ghaziabad.
15. A.K. Tyagi, TTA,
S/o Shri R.N. Tyagi
16. Rajendra Singh, TTA,
S/o Shri Buddi Singh,
O/o CGM, ALTTC, Ghaziabad.
17. Yash Pal, TTA,
S/o Shri C.P. Chopra.
18. Rakam Singh, TTA,
S/o Shri Niranjana Singh
19. Rattan Lal,
Sr. T/Supervisor,
S/o Shri Babu Ram
20. Anand Mohan, TTA,
S/o Shri Rattan Lal,
O/o CGM, ALTTC, Ghaziabad.
21. Kishan Lal,
T/Supervisor,
S/o Shri Rustam Singh,
O/o CGM, ALTTC,
Ghaziabad.

..... APPLICANTS

Versus

1. Union of India through
the Secretary,
Ministry of Communications,
Sanchar Bhawan, New Delhi.
2. The Chief General Manager,
Advance Level Telecom Training Centre,
GOI Enclave, Raj Nagar,
Ghaziabad.
3. The Divl. Engineer (Admn.),
Dept. of Telecommunications,
O/o the CGM, ALTTC,
Ghaziabad.

.... RESPONDENTS

O.A. No. 1027 of 1998

S/Shri

1. Kharag Singh,
S/o Shri Vijay Pal Singh
2. Ajeet Singh,
S/o Shri Beg Raj Singh
3. S.K. Gaur,
S/o Shri K.S. Gaur

4. Shri Chunni Singh,
S/o Shri Puran Singh,
R/o 26/IV, Godavan Block,
ALTTC, Ghaziabad.

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All the applicants are working at
ALTTC, Ghaziabad.

..... APPLICANTS

Versus

1. Union of India through
the Secretary,
Ministry of Communications,
Sanchar Bhawan, New Delhi.
2. The Chief General Manager,
A.L.T.T.C.,
GOI Enclave, Raj Nagar,
Ghaziabad.
3. The Divl. Engineer (Admn.),
Dept. of Telecommunications,
O/o the CGM, ALTTC,
Ghaziabad.

..... RESPONDENTS

Advocates: Mrs. Rani Chhabra for applicants
Shri V.S.R. Krishna for respondents

JUDGMENT

BY HON'BLE MR. S.R. ADIGE, VICE CHAIRMAN (A)

As these two O.As involve common question of law and fact they are being disposed of by this common judgment.

2. In both O.A. applicants impugn respondents' order dated 28.4.98 withdrawing the incentive allowance of 30% of basic pay (presently reduced to 15%) granted to them.

3. Dept. of Personnel & Training in its O.M. dated 13.9.85 had issued certain instructions regarding improvement in service conditions of faculty members in training institutions with a view to attract better talent. Pursuant to that O.M. the DP&T subsequently issued O.M. dated

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7.12.86 laying down certain guidelines in regard to the incentives which were to be extended to the faculty of training institutions under the control of different Ministries/Departments. These incentives were to cover training institutions meant for Grade 'A' officers in the first instance and were to be gradually extended to other training institutions. One of the incentives was that such of those faculty members who joined training institutions on deputation, were to revise incentive allowance amounting to 30% of their basic pay.

4. By letter dated 20.6.86, the Dept. of Telecommunications called upon General Manager, Advanced Level Telecommunication Training Centre (ALTTC), Ghaziabad and the G.M., Telecom. Training Centre (TTC), Jabalpur to furnish details of faculty members who were performing instructional job of training of Group A officers irrespective of their level. It was clarified that this would include all instructional staff including officials engaged in lab administration and practicals e.g. cable jointers, but would exclude staff like peons, chowkidars, drivers, stenos etc. A list of staff involved in such instructional duties along with total the financial implications of granting the aforesaid incentive allowance was called for by the aforesaid letter.

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5. Meanwhile the DP&T issue O.M. dated 17.4.86 and 3.6.86 on the subject and further clarification was issued vide their O.M. dated 31.3.87. Respondents Dept. itself issued an O.M. dated 31.1.87 relating to grant of incentives to faculty members of institutions imparting training to Group 'A' officers in ALTC, Ghaziabad and TTC, Jabalpur. Incumbents of those training institutions who would be eligible for grant of aforementioned incentive allowance were specified therein.

6. Shri Rameshwar Dayal and 16 others filed O.A. No. 712/86 while R.S. Sagar & Others filed O.A. No.1628/90. Those petitioners were technicians originally working in Delhi Telephones who had joined on deputation as instructors ALTC, Ghaziabad They were getting Rs.30/- per month as Special Pay till 31.3.86 but the same had been withdrawn w.e.f. 1.4.86 although they continued to discharge the same functions and responsibilities which they were performing as Instructors till 31.3.86. They assailed the respondents' order dated 26.12.85 and subsequent order dated 20.6.90 regarding their repatriation to their parent department.

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7. One of the claims made by the applicant was for instructional allowance in terms of respondents order dated 31.3.87 which provided that those imparting trainings primarily meant for Group 'A' officers would get instructional allowance on the 30% of basic pay from 1.1.86 and for those imparting trainings to officials other than Group 'A' officers, they would get from 1.1.87.

8. Both those O.As were disposed of by common judgment dated 3.11.90 in which inter alia it was held that applicants who were discharging institutional duties at ALTTC, Ghaziabad were entitled to incentive allowance from 1.1.87 at the rate of 30% of basic pay, besides Special Pay at the rate of Rs.30 per month from 1.4.86 to 31.12.86 if the applicants continued to work as Technicians on the instructional side at ALTTC, Ghaziabad.

9. Subsequently Shri Ranvir Singh and 28 others filed O.A. No. 772/92 in which inter alia it was prayed for grant of Special Pay of Rs.30/- p.m. upto 31.12.86 in terms of Tribunal's judgment in Rameshwar Dayal's case (supra) and for grant of 30% incentive allowance w.e.f. 1.1.86 as in the case of Group 'A' officers who were performing the same job of instructions as the applicants were performing. That O.A. was

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disposed of by judgment dated 3.5.95, in which respondents were ordered to follow the directions contained in the judgment in Rameshwar Dayal's case ((Supra) namely that applicants would be entitled to receive Special Pay @ Rs.30/- p.m. w.e.f. 1.4.86 till 31.12.86 if all the applicants continued to work as Technicians on the instructional side of ALITC, Ghaziabad and would be further entitled to receive instructional allowance at the rate of 30% of basic pay from 1.4.87.

10. Menawhile O.A. No.58/92 and O.A. No. 2374/91 were filed by various employees in ALITC, Ghaziabad complaining that they had been subjected to hostile discrimination by respondents, in as much as they had been denied the incentive allowance at the rate of 30% of basic pay (which by now had been reduced to 15%) as granted to other similarly situated employees in ALITC, Ghaziabad.

11. After hearing both parties in both O.As ^{two OAs} they were dismissed by a common judgment dated 7.11.97. While doing so the Bench observed that the clear intention of DP&T's O.M. dated 7.2.86 was to limit the incentive allowance to faculty members who joined the training institutions on deputation and were engaged in teaching/instructional duties, but ALITC,

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Ghaziabad had not properly understood those instructions and had granted the allowance even to those who were not performing teaching/instructional duties and constituted only supporting staff. The Bench accordingly directed respondents to take remedial action within three months and further to ensure that such lapses did not occur in future.

12. Respondents in their reply to ~~the~~ two O.As ^{before me} state that pursuant to the aforesaid directions they have reviewed the cases of all those who had been sanctioned the incentive allowance, and upon finding that the applicants in these two O.As presently are not performing the teaching/instructional work have discontinued the incentive allowance vide impugned order dated 28.4.98.

13. I have heard applicants' counsel Mrs. Rani Chhabra and respondents' counsel Shri Krishna.

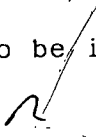
14. The main thrust of Mrs. Chhabra's contention are that the applicants in the two O.As are continuing to perform teaching/instructional duties, which had been recognised by the Tribunal itself in its judgment in O.A. No.772/92, on the basis of which applicants were drawing the incentive allowances, and discontinuing the same on the basis of the directions contained in the

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judgment in O.A. No. 58/92 and No. 2374/91, in which applicants were not a party, and without event as much as issuing a show cause notice before discontinuing the incentive allowances, was illegal, arbitrary, malafide, discriminatory and violative of Articles 14 & 16 of the Constitution particularly when others had been allowed to draw the incentive allowance.

15. On the other hand Shri Krishna has stated that the impugned order dated 28.4.98 has been passed after review conducted strictly pursuant to the Tribunal's common judgment in O.A. No. 58/92 and No.2374/91. He has stated that affected staff members were kept informed through Union representatives of the various activities carried out in the process of identifying those who were not performing teaching/instructional duties (Ann. II to reply) and upon the Union's request that legal opinion be taken before the aforesaid decision was implemented (Ann. III) the same was also done. Shri Krishna has stated that pursuant to the review, upon it being found that applicants were not performing teaching/instructional duties, the same was discontinued vide impugned order dated 28.4.98 and no individual show cause notice was necessary to be issued to applicants.



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16. I have considered the rival contentions carefully. Applicants would be entitled to incentive allowance if they were performing teaching/institutional duties, otherwise not. The question whether they were performing teaching/instructional duties at a particular point of time is a question of fact. Even if at the time the judgment in O.A. No. 772/92 was delivered on 3.5.95 applicants were performing teaching/instructional duties, it does not necessarily follow that they were continuing to perform those duties when respondents reviewed the position pursuant to the Tribunal's judgment dated 7.11.97 prior the impugned order dated 28.4.98. Incidentally Mrs. Chhabra did not deny Shri Krishna's averment that out of the 29 applicants who had filed O.A. No. 772/92 on the basis of which they were granted incentive allowance, only 21 applicants had associated themselves with the present O.A. No. 969/98 and the remaining 8 persons were continuing to draw the incentive allowances, because pursuant to the review respondents had satisfied themselves that these 8 persons were continuing to perform teaching/instructional duties.

17. In view of the fact that representatives of the applicants in the service Union were all along kept informed of the actions being taken by respondents, pursuant to the Tribunal's judgment

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dated 7.11.97 and it is upon their request that respondents sought legal opinion in the matter, it cannot be said that applicants were unaware of the matter, and in the facts and circumstances of the case no individual show cause notice was separately necessary to each applicant before implementing the directions contained in the judgment dated 7.11.97 and the judgment in Maneka Gandhi's case 1978 (1) SCC 248 does not advance applicant's case.

18. Furthermore even if applicants in the two O.As, can at this stage furnish evidence to establish that they have continued to discharge teaching/instructional duties, no prejudice would have been caused to them and they would be entitled to incentive allowance from the date it was discontinued.

19. Under the circumstances this O.A. is disposed of with the direction that in the event applicants file a self-contained representation to respondents together with ^{such} evidence as they possess in support of their claims that they are continuing to discharge teaching/instructional duties, and are therefore entitled to the grant of incentive allowance in terms of respondents' instructions issued from time to time, respondents should examine those claims and dispose of the same by means of a detailed, speaking and reasoned

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order in accordance with rules and instructions on the subject within three months from the date of receipt of such representations.

20. These two O.As are disposed of in terms of Para 19 above. No costs.

21. Let a copy of this order be placed in both O.A. case records.

(S.R. ADIGE)
VICE CHAIRMAN ((A))

/GK/

B. Singh
Court Officer
Central Administrative Tribunal
Principal Bench, New Delhi
Faridkot House,
Copernicus Marg,
New Delhi 110001