

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL NEW DELHI

O.A. No. 1043/95
T.A. No.

199

DATE OF DECISION 17.9.98

Sh. Bansi Lal	Petitioner
Sh. Yogesh Sharma	Advocate for the Petitioner(s)
Versus U.C.I. & Others	Respondent
Sh. M.K. Gupta	Advocate for the Respondent(s)

CORAM

The Hon'ble Smt. Lakshmi Swaminathan, Member (J)

The Hon'ble Mr. _____

1. To be referred to the Reporter or not? yes
2. Whether it needs to be circulated to other Benches of the Tribunal?

Lakshmi Swaminathan
(Smt. Lakshmi Swaminathan)
Member (J)

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

OA-1043/95

New Delhi this the 17th day of September, 1996.

Hon'ble Mrs. Lakshmi Swaminathan, Member(J)

Sh. Bansi Lal,
S/o Sh. Amar Chand,
C/o Yadav Service Station,
Near Civil Hospital,
Rewari(Haryana).

Applicant

(through Sh. Yogesh Sharma, advocate)

versus

1. Union of India through
the Director of Telecommunication,
Deptt. of Telecommunication,
Dak Tar Bhawan, New Delhi.
2. The Chief General Manager(Telecom),
Haryana Circle, Ambala(Haryana).
3. The Telecom Division Engineer,
Rewari District,
Rewari(Haryana).

Respondents

(through Sh. M.K. Gupta, advocate)

ORDER(ORAL)

The applicant's grievance in this case is limited to the refusal of the respondents to grant him daily allowance for the period from 4.3.91 to 18.10.91 during which period he submits that he had undergone pre-promotional training, in accordance with the subsequent circular issued by the Department dt. 13.7.93.

2. The respondents have not denied the fact that the applicant underwent the pre-promotional training during the aforesaid period. Their main contention is that although the training had ended in October, 1991, the applicant admittedly did not prefer any bill for daily allowance for this period within one year as required under SR 194-A. They further submit that even in the application submitted by the

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applicant for daily allowance in February, 1995, which
the applicant, ^{however,} states ~~that~~ he submitted in December,
1994, the same has not been counter signed by the
competent authority as required under S.R.-192. They
have, therefore, submitted that the claim is barred by
limitation.

3. The respondents' circular dated
13.7.93. a copy of which has been taken on record,
has been passed in pursuance of the judgement of this
Tribunal, Ernakulam Bench in OA-546/91 wherein it was
directed that daily allowance should be paid to the
applicant and similarly situated persons for the
pre-promotional training undergone between 1988 and
1992. The order also refers to the fact that several
other Benches of the Tribunal, including the judgement
of the Principal Bench ^{the} in case of Raj Kumar Bajaj &
Ors. Vs. U.O.I. & Ors. O.A.No.1449/92 decided on
24.12.92 have given similar judgements. The circular
dt. 13.7.93, therefore, states that the respondents
have decided to pay daily allowance to all officials
who had undergone pre-promotional training between
1988-1992 for promotion to higher post. This circular
has been sent to all Heads of Telecom Circles/Telecom
Districts/other admn. offices which implies that the
competent authority should have implemented the
directions given in the circular to the eligible
officers who had undergone pre-promotional training
between 1988-1992. The main contention of the
learned counsel for the respondents is that since the
applicant has not submitted his bills for daily
allowance within the period of one year and in

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accordance with the rules, even though he might have undergone the pre-promotional training during the period referred to in the circular, he would not be entitled to the same. They have further submitted that he cannot take advantage of the ignorance of law as ¹⁸ ~~an~~ excuse^d.

4. As mentioned above, the circular dt. 13.7.93 conveying the decision of the respondents to pay daily allowance to all the officials who had undergone pre-promotional training between 1988-1992 has been addressed to all Heads of Telecom Circles and other competent authorities. As per the rules, the applicant should have submitted the details of daily allowances within a period of one year i.e. 17.10.92 which admittedly he has not done. However, taking into consideration the fact that the respondents themselves have taken a decision later on 13.7.93 to pay daily allowance to all the eligible officials who had undergone on training between 1988-1992, and in the absence of any material on record to show what action, if any, has been taken by the respondents themselves to bring this circular to the notice of the applicant and other similarly situated persons, they cannot take the technicality ^{plea} ~~alone~~ of limitation to reject the applicant's claim, if otherwise admissible. However, it is noted that the respondents have also submitted that the applicant has not submitted the application in proper form duly countersigned by the competent authority.

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5. In the above facts and circumstances of the case, the delay on the part of the applicant *in submitting* ~~who submitted~~ the application ~~may be~~ *is* condoned and the O.A. is disposed of with the following directions:-

The applicant may submit the bills for daily allowance for the period of his pre-promotional training from 4.3.91 to 18.10.91 in proper form, duly signed by the competent authority and if it is otherwise in order in accordance with the rules, the respondents shall consider the same and pay him the allowances in accordance with the relevant rules, within a period of three months from the ~~date~~ of receipt of a copy of this order. There will be no order as to costs.

Lakshmi Swaminathan
(Smt. Lakshmi Swaminathan)

Member(J)

/vv/