

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

NEW DELHI

O.A.No. 2329/89

Date of Decision: 3-12-1991

Shri S.K. Gosain

Applicant

Shri B.B. Rawal

Counsel for the Applicant

versus

Union of India and Another

Respondents

Shri N.S. Mehta

Counsel for the Respondents

CORAM:

The Hon'ble Mr. Amitav Banerji, Chairman.

The Hon'ble Mr. B.N. Dhoundiyal, Member(A).

1. Whether Reporters of local papers may be allowed to see the Judgement?
2. To be referred to the Reporter or not?

JUDGEMENT

(of the Bench delivered by

Hon'ble Member Shri B.N. Dhoundiyal)

This OA has been filed under Section 19 of the Administrative Tribunal Act, 1985, by Shri S.K. Gosain, Assistant Central Intelligence Officer Grade-I (ACIO-I), in the Intelligence Bureau, New Delhi, against the failure of the respondents to

pay him teaching allowance @ 30% of his basic pay for the period between 5.2.87 to 31.3.88, while he was posted to work as an Instructor at the Intelligence Bureau Training Centre, New Delhi.

2. The applicant joined the Intelligence Bureau under Ministry of Home Affairs as Assistant Central Intelligence Officer Grade-II in 1967 and was promoted to Grade-I in 1981. From 5.2.87, he was posted to work as WT Instructor in the Intelligence Bureau Training Centre, New Delhi. A circular issued by the Ministry of Home Affairs on 27.4.87 conveyed sanction of teaching/training allowance to the members of the teaching/training faculty in training institutions. Six officers, including the applicant were recommended for grant of such allowance by an Interview Board headed by Shri Ponappa, Joint Director (Technical) on 24.7.87. On 10.2.88, an order was issued by the Assistant Director (Estt.), Intelligence Bureau, in which the names of the officers eligible for drawing the said allowance at the rate of 30% of the basic pay during 1987 were given. Though the applicant was eligible in all respects and had worked in the Training Institute, his name did not figure in the list of eligible officers. He brought the matter to the notice of the officers of the training branch and later submitted a representation to Deputy Director (Establishment) on 19.5.88. When no reply was received from the respondents, he

SN

filed the present OA in the Tribunal. He has prayed that the respondents be directed to grant him 30% of his basic pay for the period 5.2.87 to 31.3.88 with 18% interest towards teaching allowance due to him.

3. The respondents have not denied the above facts. According to them, the Interview Board mentioned by the applicant only short listed the eligible officers and the final selections were made by another Selection Committee comprising of Senior Additional Director, Joint Director(Admn.) and Joint Director (Trng.). The name of the applicant did not figure in the final select list. Only three posts of ACIO-I(WT) were ear-marked for the grant of training allowance by the Ministry of Home Affairs whereas five such officers were working in the Training Institute. The training allowance was given to three officers who had joined the Institute earlier than the applicant. The Institute requested the Ministry to sanction two additional posts of ACIOS-I(WT) upto 31.3.1989 but the proposal was turned down. The applicant was formally granted training allowance w.e.f. 1.4.88. According to them, no injustice was done to him and the select committee cleared him as soon as a vacancy was available.

4. The applicant has filed MP.(No.2457/90) on 6.10.90 alleging that, in order to prevent him

14

from pursuing his case in the Tribunal, he was being posted out vide an order dated 26.9.90. In their reply to the M.P., the respondents have clarified that the prescribed term for posting in the Institute is two years, extendable in exceptional circumstances to three years and that the applicant has already drawn the allowance for two and a half years.

5. We have gone through the records of the case and heard the learned counsel for both parties. It is an admitted fact that the applicant was posted to work as an Instructor in the Intelligence Bureau Training Centre from 5.2.87. The Director of Intelligence Bureau had recommended creation of additional posts to accommodate him and had by implication accepted the fact that he was eligible for the training allowance. Though there were only three sanctioned posts, five ACIO-I(WT) were posted to work as Instructors. In our view, the respondents should have retained only the sanctioned number of officers in the Institute. In any event, payment of training allowance only to three officers while denying to extend the same to two other officers, who were doing identical work and discharging similar duties amounts to discrimination and violation of Articles 14 and 16 of the Constitution.

6. In the facts and circumstances of the case, the OA is partly allowed and it is disposed of

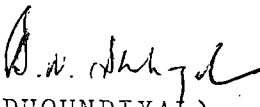
BW

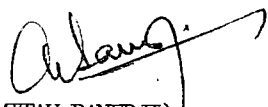
15

with the directions that the respondents shall pay teaching allowance at the rate of 30% of the basic pay to the applicant from 5.2.87 to 31.3.88 with a simple interest at the rate of 12% per annum.

7. We reject the prayer of the applicant that he should not be transferred out of the Institute after completion of his term of over two years. M.P.No.2457/90 is dismissed.

8. There will be no orders as to the cost.


(B.N. DHOUNDIYAL) 3/14/91
MEMBER(A)


(AMITAV BANERJI)
CHAIRMAN

kam.