

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

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O.A. NO.1048/89

26.02.1992

SHRI SABAL SINGH & ORS.

...APPLICANTS

VS.

UNION OF INDIA & ORS.

...RESPONDENTS

CORAM :

SHRI J.P. SHARMA, HON'BLE MEMBER (J)

FOR THE APPLICANT

...SH.J.P.VERGHESE

FOR THE RESPONDENTS

...MRS.AVNISH
AHLAWAT

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

JUDGEMENT (ORAL)

(DELIVERED BY SHRI J.P. SHARMA, HON'BLE MEMBER (J))

Applicant, Sabal Singh along with 11 other employees in Delhi Police filed this application assailing the grievances of non payment of 30% training allowance in view of the memo dt.20.8.87 (Annexure R1 to the counter) issued by the Government of India to the Chief Secretary, Delhi Administration wherein grant of training allowance to the staff of training school etc. was sanctioned to be granted in accordance with the provisions and guidelines issued by the Department of Personnel and Training in their O.M. dated 31.3.87 (enclosed to Annexure R1 to the counter). The Commissioner of Police, Delhi also issued necessary orders in January, 1988 (Annexure R2). The case of the applicants is that they have been posted on

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different duties to the Police Training School, Jharoda Kalan. The applicant Nos.1, 3, 4, 6 and 11 since August, 1984; applicant Nos.5, 7, 8 and 9 since 1985; applicant Nos.10 and 12 since 1987. The claim of the applicants is based on two grounds. Firstly, that they have been posted in the Training Institute and by virtue of the aforesaid OM of the Department of Personnel and Training and subsequent letter addressed to the Chief Secretary, Delhi Administration only by virtue of their posting, they should have been granted with the relief of 30% of the pay. Secondly, that the persons who were similarly situated have been allowed instruction allowance and the case of the applicants could not be differentiated from them and the action of the respondents amounts to discrimination violative of Articles 14 and 16 of the Constitution.

The respondents contested the application and stated that the OM issued by the Ministry of Personnel and Training is clear on the point that only those persons who are engaged in imparting instructions/training be paid 30% of the pay and in this connection referred to para 1(ix) of the OM of the Department of Personnel, which lays down, "Training allowance will be admissible only to the faculty whose work is to impart training/teaching and not to others." Obviously, the plea in the counter taken in para-1 to the reply of the application is that the applicants were neither working as Drill Instructor/PT Instructor Vehicular

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Instructor nor they had any other special qualification which could be used for imparting training to the trainees. Further, it is stated that the applicants were working in miscellaneous staff (general duty). In view of the aforesaid OM, therefore, the ground No.1 urged by the learned counsel has no force.

On the question of discrimination, the learned counsel has pointed out that at p-2 of the rejoinder, there are certain persons, seven in number, who have been cited as exemplar wherein they were assigned various duties, which cannot be said to be instructional in nature as they were given orderly, library work etc. and they were being paid instruction allowance for duties shown against them. It is a fact that this contention of the applicants has not been met adequately by the respondents and the learned counsel for the respondents has stressed that after the filing of the rejoinder, nothing was open to them to rebut that.

However, it appears from the rejoinder itself that four of the applicants have since been transferred out of PTS and the remaining eight have already been allowed from different duties in 1938, 30% of their basic pay as instruction allowance. Para 9 of the counter is very much material which goes to show that the petitioners were made to work on instructional ^{side} of the institute and from the

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date they were so made to work, they have been paid instruction allowance. The opportunity available to the applicants in the rejoinder was availed of and in the reply to para-9, it is stated that 'it needs no reply.' When this position of fact is not disputed, then any argument at any length will not upset that what has been written in para-9 of the counter

The learned counsel for the applicants pointed out that of course, there are no orders varying their place of posting or changing their nature of posting within the institution, but this argument to my mind, does not give them any better right because the posting is to the institution itself and is for the institutional head to take work at the place where the person is posted.

The learned counsel for the applicants also filed annexures to the application (Annexure I) collectively in which some of the persons of the Delhi Police posted in the said institution have been allowed instructional allowance. However, what duty these persons were doing and what was their assignment during their duration of posting has not been specifically averred in the application itself or during the course of the arguments by the learned counsel for the applicants. ^{It is clear} ~~One remains~~ that in this order, the annexure to the application, allowance was once granted and from a subsequent date was stopped. The argument of the

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learned counsel for the applicants is that stoppage occasioned because of the transfer from out of the institution itself to another place of posting, but this cannot be assumed. Against this, the learned counsel for the applicant argued that allowance was allowed to incumbents only at a point of time when they were asked to work on the instructional side of the institution and stopped when they ceased to do that type of work. In view of this, it also does not help the applicants that a number of persons were paid instructional allowance while they were also on general duty.

In view of the above facts, I find that this application does not deserve to be allowed and, therefore, is dismissed leaving the parties to bear their own costs.

J. P. Sharma

(J.P.SHARMA)
MEMBER (J)
26.02.1992