

(10)

CENTRAL ADMINISTRATIVE TRIBUNAL
Principal Bench, New Delhi

D.A.1836/88

New Delhi, This the 31st Day of January 1994.

Hon'ble Shri C.J.Roy, Member(J)

Hon'ble Shri P.T.Thiruvengadam, Member(A)

Dr. Vinay Kumar Arora,
Asst Director (Biology)
Institute of Criminology and Forensic Science, (MHA)
4/E, Jhandewalan Extension
Rani Jhansi Road,
New Delhi - 110055.

Applicant

By Advocate Nene

Versus

Union of India (Through

1. Ministry of Personnel
Public Grievances and Pension
Department of Personnel & Training
Block No.11, 2nd Floor
CGO Complex, Lodi Road
New Delhi -110003.
2. The Secretary to the Govt of India
Ministry of Home Affairs
North Block, New Delhi-110001.
3. The Director
Institute of Criminology and Forensic Science, (MHA)
4/E, Jhandewalan Extension
Rani Jhansi Road
New Delhi - 110055.

Respondents

By Advocate Shri M.L. Verma

O R D E R (Oral)

Hon'ble Shri C.J. Roy, Member(J)

1. This O.A. is a subject matter of batch of O.A.s
(O.A.-1792, 1826, 1833, 1841, 1856, 1859, 1861, 1872 & 1884/88)
decided on 4.10.1991. This applicant is working in a
training institute, Government of India. Ministry of
Personnel & Training (Training Division) issued an order
No.12017/2/66-TRG(TNP) dated 7.2.1986 (Annexure I) that
the members of the faculty on deputation and working
in ^{training} the institutions would be paid training allowance
at the rate of 30% of the total emoluments and suitable
amount considered for those recruited in the institution.

...2/-

2. As a follow up measures, Ministry of Home Affairs invited proposals from training institutions under its Ministry including ICFS i.e. Institute of Criminology and Forensic Science(MHA) vide order No.F. No.27012/5/86-FP.I dated 19.2.1986(Annexure -II). Training institutions accordingly submitted ~~its~~ proposals and training allowance was sanctioned with effect from 1.1.1986 as per(Annexure-III). Therefore, the consequential training allowance was granted to the applicant vide Annexure IV dated 30 July 1986. But by another order of DOPT dated 12017/2/86-Trg(TNP) dated 31st March 1987(Annexure V) clarifying its previous order 12017/2/86-Trg(TNP) dated 7.2.1986 such teaching allowance was restricted to deputationists only. Based on this, Ministry of Home Affairs issued instructions ^{F.No 27012/5/86-FPI} dated 28.4.1987(Annexure VI), restricting the training allowance to deputationists only and ordering recovery from those who were directly recruited on the training institutions. Aggrieved by this, this O.A. has been filed. The applicant now claims the following reliefs:-

- (I) That their lordship may be pleased to quash the orders No.12017/2/86-TRG(TNP) of 31st March 1987, and No. 27012/5/86-FPI of 28.4.1987 and order the respondent to implement the original policy order OM No.12017/2/86-Trg(TNP) of 7.2.1986 in respect of the applicant and pay Training Allowance with 12% interest on the arrear to him. The following grounds for relief and legal provisions may be relied upon.
 - i) That no reasonable opportunity was given to the applicant to explain before terminating the training allowance, that is, a service condition which is unjust and denial of natural justice(Mrs. Mohinder Kaur Vs The State of Haryana and others, Punjab & Harayana High Court, SLJ, 1987 (1), 107 refer).
 - ii) That paying the Training allowance to the deputationists and not to the regular incumbents/direct recruits is violation of Article 14, 16 and 39(e) of the Constitution of India. Their lordship may refer the case laws in Abid Hussain and others Vs Union of India and others(SC, SLJ, 1987 (3), 62): T.R.C.F. officers and others Vs Union of India and others (SC, SLJ, 1987(3), 87-88 and Bhagwan Dass and others Vs State of Haryana and other(SC, SLJ, 1987 (3), 99-100) cases.
 - iii) That an executive order cannot be made effective retrospectively either from 1.1.1986 or 1.4.1987 as per well established law by now. Their lordships may refer the case laws in P.D. Aggarwal and others

Vs State of U.P. and others(SC, SLJ, 1987(3), SLJ-122-125) and Satyendra Jeet Singh Vs Chief Administrative Officer; Ministry of Defence(CAT, SLJ, 1986 (3) 161-162).

iv) That in the name of Improvement in Service conditions serious hardship has been caused forcing the applicant to enter into litigation

v) That enough care was taken by the Government before implementing the Training allowance scheme which is evident from Annexure VIII and its para(b) in particular.

vi) That the above referred orders(Annexure V and VI) defeat the purpose improvement in service conditions.

vii) That service injustice has been caused by depriving the applicant of the Training allowance.

3. Similar issues ^{which were} ~~was~~ raised before the Principal Bench and arguments have been discussed in detail. The operative portion of the order passed by the Principal Bench in its judgement dated 4.10.1991 reads as under:-

" In the light of the foregoing discussion, all these applications are disposed of with the direction that the words " These orders will take effect from 1.1.86" in para 5 of the Ministry of Home Affairs letter No.F.No. 27012/5/86-FP.I dated 26th April 1987(copy annexed at Annexure VI) are struck down as illegal. Consequently the applicants shall be entitled to the training allowance sanctioned to them vide Ministry of Home Affairs letter No.27012/42/85-FP.I dated 1st July 1986 (copy annexed at Annexure III) read with office order No.3/6/86.ICFS dated 30 th April 1986(copy annexed at Annexure IV), issued by the Institute of Criminology & Forensic Science, w.e.f. 1.1.1986 till 27.4.1987, i.e. the date immediately preceding the date on which the revised orders were issued by the Ministry of Home Affairs. The other reliefs prayed for by the applicants are disallowed. In the facts and circumstances of the case we leave the parties to bear their own costs."

4. We are in full agreement with the reasoning given by the Principal Bench and accordingly we propose to issue the following directions:-

"The orders passed by the Principal Bench on 4.10.91 as enumerated supra will be equally applicable in this case. The case is disposed of accordingly.

No order as to costs".

P. J. Thiruvengadam

(P.T. THIRUVENGADAM)
Member(A)

(C.J. ROY)
Member(J)