

In the Central Administrative Tribunal

Principal Bench: New Delhi

OA No.1865/88

Date of decision: 5.1.1993.

Dr. (Mrs.) S. Sanyal

...Petitioner

Versus

Union of India & Another ...Respondents

Coram:-

The Hon'ble Mr. I.K. Rasgotra, Member (A)

For the petitioner None

For the respondents None

1. Whether reporters of local papers may be allowed to see the Judgement? *No*
2. To be referred to the Reporter or not? *Yes*

I.K. Rasgotra
(I.K. Rasgotra)
Member (A)

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Principal Bench: New Delhi

OA No.1865/88

Date of decision: 05.01.1993.

Dr. (Mrs.) S. Sanyal

...Petitioner

Versus

Union of India through
Ministry of Personnel, Public
Grievances & Pensions & Another

... Respondents

Coram:-

The Hon'ble Mr. I.K. Rasgotra, Member(A)

For the petitioner None

For the respondents None

Judgement(Oral)

When the case was called out after giving one pass over, none appeared either for the petitioner or for the respondents. As this is an old matter, having been filed on 21.9.1988, I consider it proper to propose do dispose of the case on merits.

2. The case of the petitioner is that she is entitled to draw training allowance at the rate of 30% of total emoluments in accordance with the Government of India OM No.12017/2/86-Trg.(TNP) dated 7.2.1987 w.e.f. 1.1.1986. This allowance was made applicable to the petitioner w.e.f. 1.1.1986 vide Ministry of Home Affairs order dated 1.7.1986 (Annexure-3 to the OA). The said memorandum was superseded by OM dated 31.3.1987. It was further clarified that the guidelines contained therein would not be applicable to the faculty members recruited separately for training institutions. Thereby the benefit of training allowance was restricted only to the officers sent on deputation to the training institutions. This resulted in the termination of

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training allowance of the petitioner retrospectively w.e.f. 31.3.1987. It is in this background that the petitioner has approached the Tribunal praying for quashing the order No.12017/3/86-Trg.(TNP) dated 31.3.1987 and No.27012/5/86-EP.I dated 28.4.1987. She further prays that the respondents be directed to implement the original policy contained in their order dated 7.2.1986 in respect of the petitioner which according to her entitles her to the payment of training allowance. The Respondent No.1, Ministry of Personnel, Public Grievances and Pensions has filed the counter-affidavit on behalf of the respondents. They have submitted that the petitioner is an employee of the institute of Criminology and Forensic Science under the Ministry of Home Affairs. That Ministry, however, has not been impleaded. They have further submitted that since the claim of the petitioner is based on the original orders of 7.2.1986 and 31.3.1987 it will be of assistance if the relevant paragraphs from these orders are perused by the Court. These paragraphs are extracted below:-

"OM dated February 7, 1986

'With regard to faculty members, who join the training institution on deputation, their emoluments may be raised by 30% of the total emoluments which they would be getting in their cadre, while posted in the Training Institute. The total emoluments in this context would mean the total monetary benefits, both direct and indirect, received by such officers before their deputation to training institutions e.g., if an officer was provided with rent free accommodation or free conveyance in his own cadre before deputation, this should be treated as indirect monetary compensation and included while calculating 30% of the emoluments. The exact manner in which this could be done, should be worked out by

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each Department for the training institutions with which it is concerned. So far as the permanent faculty members of training institutions are concerned, suitable proposals for enhancement of their pay/special pay on similar lines should be worked out by the Department concerned."

OM dated 31st March, 1987

When an employee of Government joins a training institution meant for training government officials, as a faculty member other than as a permanent faculty member, he will be given a 'Training Allowance' at the rate of 30% of his basic pay drawn from time to time in the revised scales of pay."

Both the OM's clearly define the eligibility and entitlement of the 30% training allowance. In other words the training allowance is applicable to only those faculty members who join the training institutions on deputation. It is not available to permanent faculty members. Accordingly, OM dated 7.2.1986 is not applicable to permanent faculty members. The subsequent OM of 31.3.1987 is also on the plain reading of the orders applicable to government officials who join a training institution on deputation/-tenure for training as a faculty member. The petitioner being a permanent member of the institute of Criminology and Forensic Science is clearly outside the ambit of the provisions made in the two OM's referred to above.

2. In her rejoinder the petitioner has found fault with the defence of the respondents on the ground that they are ignorant of the consideration for which the Institute of Criminology and Forensic Science of Ministry of Home Affairs had decided the admissibility of the training allowance to the petitioner or subsequent withdrawal and implied that the Ministry of Personnel, Public Grievances and Pensions, Respondent No.1 are not competent to put up the defence against the claim of the petitioner. But it is

the petitioner herself who is responsible for the predicament, as she failed to implead the Ministry of Home Affairs even though this fact was pointed out by the respondent No.1 in its counter-affidavit.

3. Having regard to the facts and circumstances of the case, I am of the opinion that the training allowance granted to the government officials was applicable only to the officers who fulfil certain conditions, as laid down in the OMs referred to in the preceding paragraphs. The petitioner did not fulfil those conditions and she was, therefore, not eligible and entitled to draw the said allowance. Accordingly, the Original Application is dismissed as bereft of merit. No costs.

San.

Dulaysh
(I.K. RASGOTRA)
MEMBER(A)