

Central Adminsitrative Tribunal, Principal Bnech

OA 2326/2004

New Delhi this the 1st day of April, 2005

Hon'ble Mr. Justice M.A. Khan, Vice Chairman (J)
Hon'ble Mr. S.K. Naik, Member (A)

1. Somnath,
S/o Shri Om Prakash,
R/o Qtr. No.27, UTCS Complex, East Arjun Nagar,
Behind Karkardooma Courts
2. Ramkishan,
S/o Shri Sumesh,
R/o Qtr. No.2S, UTCS Complex, East Arjun Nagar,
Shahdara, Delhi - 110 032
3. Madan Lal,
5/0 Late Chuare Lal,
R/o Qtr. No.26, UTC5 Complex, East Arjun Nagar,
Shahdara, Delhi - 110 032
4. Vinod,
5/0 Shri Harcharan,
R/o Qtr. No.14, UTC5 Complex, East Arjun Nagar,
Shahdara, Delhi - 110 032
5. Komal,
5/0 Shri Vilasi Ram
R/o Qtr. No.32, UTCS Complex,
East Arjun Nagar, Shahdara, Delhi - 110 032
6. Roshan Lal,
S/o Shri Devisahai,
R/o Qtr. No.31, UTCS Complex, East Arjun Nagar,
Shahdara, Delhi - 110 032
7. Sarvesh,
S/o Late Shri Simrat,
R/o Qtr. No.28, UTCS Complex, East Arjun Nagar,
Shahdara, Delhi - 110 032
8. Rakesh Kumar,
5/0 Shri Kailash,
R/o Qtr. No.30, UTC5 Complex, East Arjun Nagar,
Shahdara, Delhi - 110 032

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9. Kuldip Singh,
S/o Late Shri Dulo Ram,
R/o Quarter No.29, UTCS Complex, East Arjun Nagar,
Shahdara, Delhi - 110 032
10. Rajendra Singh,
S/o Lakshmi Chand,
R/o Qtr. No.10, UTCS Complex, East Arjun Nagar,
Shahdara, Delhi - 110 032
11. U.V. Raju
S/o Late Shri Bardhanadar, R/o 16/225,
Kalyan Puri, DELHI - 110 091
12. Ajay Kumar,
S/o Shri Sudama Mehto, R/o E- 383,
East Vinod Nagar, DELHI - 110 091
13. Mukesh Kumar, S/o Shri Des Raj,
R/o E - 391, Gali No.7, West Vinod Nagar, DELHI - 11092
14. Hari Kishan,
5/0 Shri Ram 5warup, R/o H. No. 1333, Kalyan Vihar,
Delhi - 110 091
15. Sone Lal
S/o Late Shri Ratan,
R/o 312 No. Khera Colony, Ghaziabad (V.P.)
16. A. Muzir,
S/o Shri Abdul Sathar,
R/o Qtr. No.15, UTCS Complex, East Arjun Nagar,
Shahdara, Delhi - 110 032
17. Rameshwar Singh,
S/o Ch. Chander Singh, R/o V. P.O. Khera, Sonepat
18. Hameed,
S/o Shri Late Gafur Khan, R/o Village Chandola, Mehrauli,
DELHI - 110 030
19. Ramkishan,
S/o Shri Nathu Singh, R/o 915, Type- II Gulabi Bagh,
DELHI - 7
20. Mahvir Singh,
S/o Shri Rup Chandra, R/o Village Nithari, Post Office Nangloi,
DELHI - 110 041

.....Applicants

By Advocate: None.

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Versus

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1. The Government of NCT of Delhi,
Through it's Chief Secretary,
Players Building,
I.P. Estate,
NEW DELHI
2. Directorate of Training,
Union Territory Civil Services, Institutional Area,
Vishwas Nagar,
Behind Karkardoma Courts,
Shahdara,
DELHI. - 110 032.
3. The Secretary & Director (Trg.) Directorate of Training (UTCS)
Government of NCT of Delhi,
East Arjun Nagar Shahdara,
DELHI - 110 032.Respondents

By Advocate: Shri George Paracken.

ORDER (ORAL)

By Hon'ble Mr. Justice M.A. Khan, Vice Chairman (J)

The applicants are aggrieved that they are not being paid Special Training Allowance at par with certain other employees of the category to which they belong.

2. The case of the applicants is as follows. The applicants, who are 20 in number, are working as drivers, library attendants, librarians, commercial artists, class room attendants, peons, sweepers-cum-chowkidars, cooks, cook-helpers and attendants in the respondent No.2 Directorate of Training (UTCS), Government of NCT of Delhi. Special Training Allowance at the rate of 15% of the basic pay is being paid to the employees in Grade-I to Grade-IV (DASS) AOs/EOs, AAOs, Senior PA and Grade-III (Stenographer) vide order dated 19.4.20004 which was issued in accordance with the guidelines of the Department of

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Personnel and Training, Government of India contained in OM NO. 12017/2/86-Training dated 31.3.1987 (Annexure A-1V). In terms of this OM, a special Training Allowance is payable only to employees who have joined the institute as a faculty member, other than a permanent faculty member, whose work is to impart training/teaching. The employees who have been granted this allowance vide order dated 19.4.2002, Annexure A-3, do not fall in this category. The applicants' representation dated 16.6.2004 for granting Training Allowance to them also has been rejected vide order dated 16.7.2004 which is impugned in the OA. The applicants have been denied the benefit of this OM dated 31.3.1987 and have been discriminated against. They have challenged the Memorandum dated 16.7.2004 on account of being violative of principles of equality enshrined in Articles 14 and 16 of the Constitution of India.

3. The respondents conversely pleaded that there is no discrimination with the applicants who are permanent employees of the training institute so not eligible to the grant of Training Allowance in terms of the OM dated 25.7.1986, 31.3.1987 and 26.6.1991 issued by the Ministry of Personnel, Public Grievances and Pensions, Department of Personnel and Training, copies of which were filed as Annexure R-2 collectively. The employees whose name appear in the Annexure A-3 and who have been granted Training Allowance have joined the Institute from outside and are liable to be transferred out of Institute, in other words, not permanent employees of the Institute, but these employees perform different duties in order to facilitate the training programme for successful conduct. Hence employees whose categories mentioned in para 4.3 of the OA have been allowed Training Allowance in accordance with Rules. As such there is no discrimination with the applicants. It is submitted that the representation of the applicants was also rejected by Memorandum dated 16.6.2004, Annexure A-1, for the same reason.





4. In the rejoinder the applicants have reiterated their own case and have controverted the allegations of the respondents that there is no discrimination with them in the matter of grant of special Training Allowance.

5. We have heard the learned counsel for the respondents and have also perused the relevant record. The applicants and their counsel have remained absent.

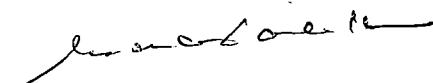
6. Pursuant to the OM dated 25.7.2986, 12.5.1987 and 26.6.1991 faculty member, other than the permanent faculty members, who are imparting teaching and training in the respondent institute and are on deputation from outside department are paid special Training Allowance equal to 30% of their pay. The applicants are working as drivers, library attendants, librarians, commercial artists, class room attendants, peons, sweepers-cum-chowkidars, cooks, cook-helpers and attendants etc. with the respondent – Directorate of Training. They are direct recruits to the posts they are holding and they are permanent employees in the Institute and are not liable to be transferred out of the Institute. They do not belong to the category of faculty members, other than the permanent faculty, and are not connected with the imparting of teaching and training in the Institute. They are ineligible for the grant of special Training Allowance. In para 4.2 of the OA they themselves have alleged that they were permanent employee of the institute and were not involved in any training/teaching work.

7. However, their contention is that some other employees who are similarly situated have been granted the Training Allowance vide order dated 19.4.2004 (Annexure A-3) and the applicants should not be discriminated against. The relevant extract of Annexure A-3 reads as under:-

“Sub: Grant of Special Training Allowance to
their staff of Directorate of Training,
UTCS.

Madam,

I am directed to convey the approval of
Government of NCT of Delhi to the grant of Special
Training Allowance @ 15% of the basic pay to the



following category of staff posts w.e.f. 1.1.1988, strictly in accordance with the provisions of the guidelines issued by the Department of Personnel and Training, Government of India vide their OM No. 12017/2/86-Trg. (TNP) dated 31.3.1987:-



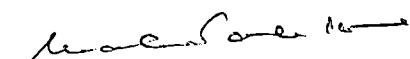
S.No.	Name of post	No. of posts
1.	Secretary & Director (Trg.)	1
2.	Jt. Director	1
3.	Deputy Director (Trg.)	2
4.	Assistant Director (Trg.)	4
5.	Grade-I (DASS) (AO/EO)	2
6.	AAO	1
7.	Sr. PA	1
8.	Grade-II DASS	2
9.	Grade-III DASS	8
10.	Grade-IV DASS	8
11.	Grade-III Steno	7

The expenditure involved on this account will be debitale under the Major Head 2070 D-1 (1)(1)(1) Salary during the current financial year, i.e., 2004-05.

These issues with the prior concurrence of finance (Exp.I) Department, Government of NCT of Delhi vide U.O. Note No.7/Fin.(E.I) dated 15.4.2004".

8. In the counter to the OA the respondents have alleged that the persons who have been granted special Training Allowance by the said order are transferable to outside the Institute and they are not permanent employees of the Institute. They have come from outside and may be transferred out of the Institute and further they are performing different duties in order to facilitate the training programme for a successful conduct. Therefore, they fulfilled the requisite eligibility condition.

9. Undoubtedly there cannot be irrational and hostile disparity in the pay and allowances of similarly situated persons in the respondent – Institute. But law is equally settled that there may be disparity and inequality in the matter of pay and allowances in well defined groups founded on intelligible differentia which has rational nexus to the





object sought to be achieved. In such an eventuality it will not be violative of Articles 14 and 16 of the Constitution of India. In the present case the special Training Allowances is being paid only to those faculty members, who are not permanent members of the faculty of the respondents – Institute, who are engaged on imparting teaching and training in the Institute. Others, who are permanent faculty members and those employees who are not engaged in imparting training and teaching in the Institute, will not be eligible for the grant of this allowance. Office Memorandum dated 26.6.1991 (Annexure P-2 Colly), page 16 of the counter (52 of the paper book) has elaborated reasons for grant of Training Allowance to the employees, who are not permanent faculty members as under:-

“Office Memorandum

Sub: Improvement in Service conditions of Faculty members in Training Institutes.

The undersigned is directed to refer to Ministry of Railways, Railways Board's OM No. E(MP)91/13/8 dated 25.3.1991 on the subject mentioned above. The matter under reference has been considered in consultation with our Establishment Division and the following comments are offered on the points raised in para 7 (i) to (iii) of your OM.

(i) The incentive by way of Training Allowance (TA) was provided to attract the best available talents to the Training Institutions. The rationale for issue of this OM was to attract talented Government Officers, who are otherwise reluctant to go on deputation to Training Institutions. For permanent faculty members, they are already in the training institution concerned and doing the job for which they were recruited and drawing the pay prescribed for these posts. Therefore, there is clearly no rationale to allow them Training Allowance as pay scales are prescribed for the post keeping in view the entire job contents/level of responsibility, etc. of the post. Training Allowance is different as it is not related to job contents of the post. Had the intention of the OM dated 7.2.1986 been that permanent faculty members should also get the same quantum of addition to emoluments as the faculty members on deputation from the Government, then that OM would itself have made it clear instead of merely suggesting formulation of separate proposals for them.

(ii) The IVth Pay Commission had recommended replacement pay scales for the faculty members of the Training Institutions like LBSNAA and had not recommended any specific deputation allowance over and above the revised pay scales. Therefore, the

Leave Taken

provision of adding special pay in respect of the permanent faculty as provided in our OM dated 7.2.1986 was not compatible with the recommendation of the IVth Pay Commission and was thus withdrawn.

10. Classification the persons belonging to the same class/groups for the purpose of differential treatment, has to satisfy twin test:-

- (i) The classification must be founded on a intelligible differentia which distinguishes persons who are grouped together from others left out of the group and;
- (ii) differentia must have a rational nexus to the object sought to be achieved by the law which brings about discrimination between two groups.

11. The group of the employees of the respondent – Training Institute, who are entitled to be granted the Training Allowance, is well founded on intelligible differentia, i.e., all of them who joined the training institute from outside departments. It is paid in order to attract the best available talent to the training institutes and who otherwise would be reluctant to go to these institutes on deputation basis. Whereas the permanent faculty members have been recruited for manning particular permanent posts in the Institute. Both the groups, those who are appointed on deputation basis or otherwise from outside departments and those who are appointed on permanent basis in the faculty of the training institutes form well defined groups and there is rational nexus between Training Allowance given to one group with the object sought to be achieved, i.e., to give incentive and encouragement to outsiders to work in the Institute who otherwise may be reluctant to work there. In fact, the grievance in this case is not from the permanent faculty members or those who are concerned with imparting training in the Institute. Rather the applicants, who are permanent employees of the Institute, and who are in no way concerned with imparting of training and teaching in the Institute have sought parity in the matter of payment of Training Allowances ~~at~~ ^{as} par with other employees who are

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working in the administrative office of the Institute, like them. The employees who have been granted Training Allowance vide order dated 19.4.2004 formed a separate and distinct group. They were not permanent employees of the Institute, they can be transferred out of the Institute and they are performing duties, which in the view of the Institute, facilitated training programme for successful conduct. Conversely the applicants are permanent employees of the Institute and they are not liable to be transferred out of the Institute. The disparity and discrimination in the matter of payment of Training Allowance is, as such, between two well defined groups and not inter-se members of the same group. Such an inequality or discrimination is legally permissible.

12. For the reasons stated above, the claim of the applicants that they are also entitled to be granted Training Allowance at par with those who have been granted such allowance vide order dated 19.4.2004 is not tenable since those who have been granted this allowance formed a distinct and well defined group founded on intelligible differentia and with the purpose of attracting best of the talent in the training institutes.

13. For the reasons stated above, there is no merit in the OA and it is dismissed but without any order as to costs.

S.K. Naik
(S.K. Naik)
Member (A)

M.A. Khan
(M.A. Khan)
Vice Chairman (J)

Rakesh