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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
PRINCIPAL BENCH,
NEW DELHI.

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Date of Decision: 24.12.92

DA 1449/92

RAJ KUMAR BAJAJ & 20 ORS.

... APPLICANTS.

Vs.

UNION OF INDIA & ORS.

... RESPONDENTS.

CORAM:

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

For the Applicants

... SHRI M.L. CHAWLA.

For the Respondents

... SHRI P.P. KHURANA.

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

J U D G E M E N T

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

The applicants in the above application under Section 19 of the Administrative Tribunals Act, 1985 are in the service of the Department of Telecommunication (DOT) and are working as Assistant Telegraph Traffic Superintendent (ASTT) in the Central Telegraph Office, New Delhi. The applicants were deputed to the Regional Telecom Training Centres on different dates to three different stations namely; RTTC Secunderabad, RTTC Trivandrum, and RTTC Rajpura. A copy of the orders sending them for training

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to the Regional Telecom Training Centres contained an averment at the bottom of the said order that departmental candidates are entitled to TA and DA as per rules. Applicants No.1 and 2 Raj Kumar Bajaj and Sarwar Singh were paid TA and DA at the prescribed rates and the rest of the applicants No.3 to 21 named in the title of the application were not paid any advance nor their claims pertaining to the daily allowance, submitted after the completion of the training, were paid. The respondent No.3, however, has issued an order for recovery of the advance of TA and DA paid to the applicant No.1 and 2, named above. In pursuance of this order dated 16.6.88 a recovery has already been ordered to be affected by a subsequent order dated 31.5.90. Applicant No.1 and 2 preferred an appeal but to no effect. The other applicants have also made repeated submissions to the authorities for expeditious settlement of their claims in respect of daily allowance but the respondents have not settled the same, hence the present application has been filed.

2. The respondents in their reply have stated that the orders to pay daily allowance to the departmental officers deputed for training prior to appointment on higher posts or grades were withdrawn vide DOT, New Delhi, letter dated 16.6.88 (Annexure-A1) the applicant are not entitled to get daily allowance. It is admitted by the respondents in reply in para 4.15 that in pursuance of the orders of the Ministry of Finance, Department of Expenditure dated 5.3.92 the payment of daily allowance has been restored to the Central Govt. employees deputed for

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training prior to appointment to higher posts or grades. It will take effect from the date of issue of the orders. Thus, according to the respondents, the applicants have no case.

3. I have heard the learned counsel for the parties at length. It is not denied by the respondents that while sending the applicants for training in RTTC at various stations Secunderabad, Trivandrum and Rajpura, the order issued in their name contained a specific averment that departmental candidates are entitled for TA/DA as per rules. In pursuance of this order, the applicants have joined the training at the Training Centres and also completed the training after undergoing full course of training at the same Centre. The learned counsel for the applicants argued that All India Telegraph Traffic Employees Union, Class-III, Kerala Circle and four others filed the OA 546/91 before the Ernakulam Bench of the CAT, which was decided on 27.8.91 and the issue under consideration in the said judgement has also been regarding the admissibility of DA during the period of training for appointment to the higher post including that of ASTT. The Ernakulam Bench of the CAT has considered the matter in the light of another judgement of OA 315/89, where identical question was involved. While deciding the OA 315/89, the Ernakulam Bench in that OA has observed as follows :-

"According to Government orders, G.I., M.F., O.M. No.19013/1/75-E.IV(B), dated the 22nd September, 1975; No.19013/3/76-E.IV(B), dated the 17 November, 1977, No.19030/1/76-E.IV(B), dated the 30 Jan., 78; No.19030/2/86-E.IV, dated the 24th March, 1986 and No.19030/5/86-E.IV, dated the 12th December, 1986 quoted as Government orders No.3 beneath S.R.164

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at page 190 and 191 of the Swamy's Compilation of R.R.S.R. Part-II, Government servants deputed to undergo training in India are entitled to get daily allowance according to the scales mentioned therein. Those Government orders and S.R. 164 are applicable to all the employees under the Central Government. The applicability of these Government orders and the provisions of S.R. cannot be taken away in the case of a specified class of trainees by the DG, P&T on the ground that the Finance Ministry has stated that certain orders issued by the Postal Department were null and void. The contention of the respondents that the persons who are undergoing a training on promotion stand on a different footing than officers undergoing in service training inasmuch as the promotees get a benefit by the training and for that reason they have to bear the expenses for the training, does not appeal to us as a sound argument. The S.R. 164 or the Government decisions cited above do not make any distinction between the persons undergoing training on promotion and persons who are undergoing other in service training."

In view of this, the judgement delivered by the Ernakulam Bench of the CAT subsequently in the above mentioned OA 546/91 has also been decided on the same directions, as follows :-

"In the conspectus of facts and circumstances, we allow the application, declare that the applicants 2 to 5 and similarly situated persons are entitled to get D.A. during the period of their training for appointment to higher post and we direct the respondents to draw the D.A. due to the applicants and to disburse to them within a period of two months from the date of communication of this order. There is no order as to costs."

4. The respondents in the reply have only averred that judgement of Ernakulam Bench, CAT, only gives the benefits to the applicants of those OAs but it is not so. In the judgement of the Ernakulam Bench, referred to above, the issue has been finally decided not only in ^{favour of} the applicant of those cases but also in the operative portion of the judgement it is observed that the applicants of the OA 546/91 and similarly situated

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persons are entitled to get DA during the period of their training for appointment to higher posts. Thus, the judgement of the Ernakulam Bench of the CAT cannot be said to be only applicable to those applicants.

5. The learned counsel for the respondents could not show any other circular or rule from FR/SR that the applicants are not entitled to grant of TA for the training period they had undergone on the specific order issued by the respondent No.3.

6. In view of this fact, the present application is fully covered by the judgement of the Ernakulam Bench. I am in full agreement with the said view and the DA is, therefore, disposed of accordingly.

7. In the conspectus of the facts and circumstances, the application is allowed and the respondents are directed to draw the DA due to the applicants No.3 to 21 and to disburse to them the same and further, the respondents not to recover the already paid amount of DA etc. to applicants No.1 and 2 and if any amount has been recovered from them in pursuance of the impugned order, that shall be refunded to them. The respondents to comply with the above directions within a period of three months from the date of receipt of a copy of this judgement.

In the circumstances, parties to bear their own costs.


(J.P. SHARMA)
MEMBER (J)
24.12.92.