

Open Court

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

Original Application No. 816 of 2002

Dated: This the 09th day of December, 2004

HON'BLE MRS. MEERA CHHIBBER, MEMBER-J

Guru Prasad Nath, S/o Sh. O.P.Nath,
aged about 39 years, resident of
quarter No. 2-A, Type III Railway
Colony, Khalispur, Varanasi.

...Applicant.

By Adv. : Shri S.S.Sharma

Versus

1. Union of India through-
The General Manager, Northern
Railway, Baroda House,
New Delhi.
2. The Chief Engineer/General,
Northern Railway, Baroda House,
New Delhi.
3. The Principal,
Civil Engineering Training Academy,
Northern Railway, Kausur.
4. The Deputy Chief Engineer/
Concrete Sleeper Plant,
Northern Railway,
Subedarganj, Allahabad.
5. The Divisional Railway Manager,
Northern Railway, Allahabad.
6. The Divisional Engineer,
Northern Railway, Allahabad.

...Respondents.

By Adv. :Shri A.K.Gaur

O R D E R

By Hon'ble Mrs. Meera Chhibber, J.M.

By this O.A. applicant has sought the direction to
the respondents to pay 15% training allowance to the applicant

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...pg 2/-

for the period from 29.11.1997 to 25.2.1999 for working as Instructor in Civil Engineering Training Academy, Kanpur. He has further sought interest @ 18% per annum compounded annually from the date the payment of training allowance is due to the applicant till the date it is actually paid to him and also special cost of Rs.5000/- for dragging ^{Writ} into the Court.

2. The brief facts as narrated by applicant are that applicant was working as Junior Engineer Grade II at Allahabad when he was transferred to Civil Engineering Training Academy, Kanpur vide order dated 28.11.1997 (page 19). He joined at CETIA, Kanpur on 29.11.1997 and vide order dated 03.02.1998 applicant was sent for training commencing from 09.2.1998 to Supervisors Training Centre, Southern Railway, Bangalore (page 20). Vide letter dated 14.2.1998 applicant along with other candidates was relieved from Supervisors Training Centre, Bangalore with the direction to report back to their respective Head Quarters. In the said letter applicant's name was figured ✓ at serial no.11 and he was to report back at CETIA, Kanpur. It is submitted by the applicant categorically in the O.A. that he was working as Instructor and was imparting teaching and training to the Railway Staff in CETIA, Kanpur. Thereafter but since he was not being paid Teaching Allowance, he gave a representation on 04.3.1998 requesting for payment of Training allowance (page 23). His application was duly forwarded by the Principal to the General Manager(P), personally. No reply was given, applicant again made a representation to the Principal, CETIA, Kanpur on 18.6.98 (page 25) and ultimately without giving him any reply, he was returned back to Allahabad Division. vide order dated 25.2.99 pursuant to the letter dated 03.2.1999, issued by the General Manager (page 32).

3. Counsel for the applicant has relied on Railway



Board's Circular dated 08.5.1991 (page 12) and 14.9.1992 (pg16) to substantiate his claim. He has, thus, stated that applicant should be given the training allowance for the period from 28.11.1997 to 25.2.1999.

4. Respondents, on the other hand, have submitted that for imparting teaching and training to the Railway Staff, the payment of Training allowance @ 15% to the Instructor is not mandatory as he is to be examined by the Screening Committee of 3 J.A. Grade Officers and found fit ^{only 12} ~~that the same~~. Individual becomes entitled to the said allowance. As the said allowance is to be paid only to those persons, who are found outstanding should be recommended for sanction of training allowance. They have relied upon Railway Board's letter dated 4.5.2000 wherein it is stated that admissibility of the allowance in each individual case will be examined by a Committee at appropriate level to be constituted as per Board's letter dated 23.8.1994, which should not only take into account the outstanding service record but also the outstanding performance in their earlier assignment. The letter further clarifies that until such time, the screening is done and faculty members not found fit or repatriated to their respective parent cadres such persons, who have worked as faculty members on deputation, may be allowed training allowance from the date of joining or 01.2.2000, whichever is later till the date of reversion. They have, thus, stated that the claim of applicant is not maintainable in view of Railway Board letter dated 04.5.2000 (Annexure-CA-I). As ^{far as} ~~it only talks 12~~ the Railway Board's letter dated 14.9.1992, they have stated ^{about} ~~about~~ the option for accepting reduction in training allowance from 30% to 15% and does not enhance the case of applicant. They have, thus, submitted that since he was never screened by the J.A. Grade Officers, therefore, applicant is not entitled for payment of training allowance. The O.A. may, therefore, be dismissed.

5. I have heard both the counsel and perused the pleadings as well. At the outset I would like to mention that the Railway Board letter dated 04.5.2000, would not be applicable in the present case because the letter dated ~~was to be~~ 04.5.2000 ~~would~~ be effective from 01.2.2000 only as is evident from the letter itself. whereas applicant was transferred to CETA, Kanpur in 1997 and he had already been repatriated back to Allahabad Division in February, 1999 itself. It is settled law that any letter, which is issued by the Railway Board would have only prospective effect unless it states categorically that the letter has to be given retrospective effect. In this case the letter itself says that the order will take ~~the~~ effect from 01.2.2000, therefore, it is not understood how respondents have relied on Railway Board's letter dated 04.5.2000.

6. Apart from it even this circular dated 04.5.2000 states categorically that until such time, the screening is done and the faculty members not found fit or repatriated to their respective parent cadres such persons, who have worked as faculty members on deputation, may be allowed training allowance from the date of joining or 01.2.2000, whichever is later till the date of reversion. This paragraph was mentioned by the Railway Board in its letter dated 08.5.1991 as well. To be more precise, I would like to quote the contents of letter dated 08.5.1991, which ~~for~~ ^{for B} have ready reference reads as under:

"It has inter-alia been stipulated in the above orders that the admissibility of the allowance in each individual case should be examined by a committee at the appropriate level which would screen the existing incumbents drawn on deputation and only those found outstanding should be recommended for sanction of Training Allowance and retained; others should be repatriated to their respective parent cadres.

References have been received from certain Railways whether trainers who were repatriated to their parent cadres either before screening or after screening are eligible for 30% Training Allowance for the period they had served in the Training School.

The Ministry of Personnel, Public Grievances and Pension(Department of Personnel and Training) have clarified that the trainers who have worked as Faculty Members/Heads of Training Institutions are entitled to training allowance from the date of joining till the date of reversion to their parent cadres."

7. The allowance of 30% was subsequently reduced to 15% by letter dated 25.5.1992, therefore, from the above paragraph, it is clear that even those trainers, who were posted ⁱⁿ ~~for~~ the training institutes and had imparted teaching and training, were entitled to get the training allowance, even though they had not ^{been} ~~found~~ fit by the screening committee or ~~not~~, were not screened by the screening committee. In this back drop, It is relevant to mentione here, the averment made by applicant in para 4.10 of the O.A. wherein applicant had stated categorically that he was working as Instructor and was imparting teaching and training to the Railway Staff in CETA, Kanpur. In responce to ~~those~~ ^{this fact is} respondents have stated in their paragraph 11 of the C.A. that the contents of paragraph 4.6. to 4.14 called for no comments, which means that the averments made by applicant, specifically ~~has~~ not been disputed by the ~~respondents~~, therefore, it is deemed to have been admitted by the respondents. The net result, therefore, be, that applicant would be entitled to get the training allowance in the Training Institute. The question now arises as to which is the said period for which applicant would be entitled for the training allowance. As per applicant's own showing, he was transferred to CETA, Kanpur vide order dated 28.11.1997, he joined there on 29.11.1997 and was, thereafter, sent for training himself to ~~the~~

to Supervisors Training Centre, Bangalore on 14.2.1998 and was directed to report to CETA, Kanpur thereafter.

Therefore, this period from 28.11.1997 to 14.2.1998 cannot be treated as a period when applicant would have ~~been~~ imparted any Training to the members of the institute because he was himself under training during this period.

Therefore, he cannot be said to be entitled for training allowance ^{due to} ~~in~~ this period. ~~in this period~~. It is only after this period that he would have imparted Training to the Members of the institute, therefore, applicant would be entitled to get the training allowance from the date he joined at CETA, Kanpur after he was ^{relieved of} ~~relief~~ from the S.T.C., Bangalore, till he was repatriated vide order dated 25.2.1999.

It is repeated that applicant would be entitled for training allowance from the period he joined at CETA, Kanpur after his training till 25.2.1999. Accordingly respondents are directed to make payments to the applicant for training allowance @ 15% for the said period **within three months** from the date of receipt of a copy of this order. As far as his request for interest and cost are concerned same are rejected. Applicant has himself taken ~~in~~ four years to approach this Tribunal after joining the CETA, as this O.A. was filed only on 15.7.2002 whereas he had worked in CETA in 1998 to Feb. 1999 only therefore applicant can't claim any interest. 18

8. With the above direction this O.A. is allowed ^{partly} 18 with no order as to costs.


Member-(J)

Brijesh/-