

CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

O.A.NO. 487/92
T.A.NO.

DATE OF DECISION 31.07.1998

Shri D.P. Ojha & Others Petitioner

Shri C.S. Upadhyay Advocate for the Petitioner [s]
Versus

Union of India and Others Respondent

Mrs. P. Safaya Advocate for the Respondent [s]

CORAM

The Hon'ble Mr. V. Ramakrishnan, Vice Chairman

The Hon'ble Mr. P.C. Kannan, Member (J)

JUDGMENT

- 1, Whether Reporters of Local papers may be allowed to see the Judgment ?
- 2, To be referred to the Reporter or not ?
- 3, Whether their Lordships wish to see the fair copy of the Judgment ?
- 4, Whether it needs to be circulated to other Benches of the Tribunal ?

1. Shri D.P. Ojha
 2. Shri P.K. Rakshit
 3. Shri Amarjit Dheman
 4. Shri S.K. Dewan
 5. Shri P.K. Ghoshal
 6. Shri Damodar Laxman Wakodikar
 7. Charansingh
- All are working as Laboratory Demonstrators in the E.M.E., School, Baroda.
8. Shri Suliman Dal
 9. Shri Mukund Ambalal Kshatri
- both are working as Laboratory Assistants in the E.M.E. School, Baroda.

... Applicants

(Advocate: Mr. C.S. Upadhyay)

VERSUS

1. The Union of India,
Copy to be served through
the Secretary,
Ministry of Defence,
Government of India,
New Delhi.
2. The Secretary,
Ministry of Finance,
Department of Expenditure,
Government of India, New Delhi.
3. The Director General of E.M.E.
Master General of Ordinance Branch,
Army Head Quarter, D.H.Q.,
P.O. New Delhi - 110 011.
4. The Commandant,
E.M.E. School, Fatehgunj,
Camp Baroda - 300 008.

... Respondents

(Advocate: Mrs. P. Safaya)

ORAL ORDER

O.A./487/92

Dated: 31.07.1998

Per: Hon'ble Mr. V. Ramakrishnan, Vice Chairman

We have heard Mr. Upadhyay for the applicants, Mrs. Safaya for the respondents and gone through the relevant records.

Contd..3/-

2. The applicants 1 to 7 are working as Laboratory Demonstrators in the E.M.E. School, Baroda and applicants 8 and 9 are working as Laboratory Assistants in the same school. Their prayer is that they should be given the pay and allowances of the post of Lecturer for the period for which they claim to have performed the duties of Lecturer.

3. Mr. Upadhyay for the applicants submits that even though they have been recruited and designated as Demonstrators and Laboratory Assistants, they are in fact performing the duties of a Lecturer. He refers in this connection to the time table in the various courses given by the Technical Adjutant, Faculty of Weapon Technology, EME School, Baroda enclosed as Annexure A-11. The counsel also submits that despite performing the duties of ~~the~~ higher post of Lecturer, they have been designated only at lower level of Laboratory Assistant/Laboratory Demonstrators. It is also his contention that the applicant had requested for a cadre review for enhancement of the promotional prospects but the Department has not taken any action with regard to the same.

4. The main argument in support of the OA is that the applicants had in fact performed their duties of a Lecturer and applying the principle of 'Equal pay for equal work' they have a right to be given the same emoluments which are available to a Lecturer. The respondents have denied this contention and in their reply statement (Para 5(9) of their reply) they say that the applicants are taking the classes merely to impart basic knowledge to the jawans for upgradation of their grades at low level. It is also contended that Diploma Course classes are conducted only by the junior commissioned officers who are qualified diploma holders in that particular field. Above all, they say that the applicants

did not possess the prescribed qualification laid down in the Recruitment Rules for the post of Lecturer.

5. Mr. Upadhyay concedes that the applicants do not have the requisite qualification as laid down in the Recruitment Rules, a copy of which is at Annexure R-1, to the reply statement. He however does not agree that the applicants are not taking the classes for the diploma course. He also brings out that as per the instruction dated 31.12.92 as at Annexure A-12 a minimum of 75% of theory classes for diploma courses should be taken by officers. The counsel submits that there is a shortage of lecturers and a number of posts are vacant and this has resulted in a situation where the applicants are made to shoulder the higher responsibility even though they have not been designated as such. It is also his stand that they are giving lectures in Applied Science which is a pre-requisite for obtaining diploma.

6. We have carefully considered the rival contentions.

7. So far as the cadre review aspect is concerned, it is not an issue in the present OA. We are also informed that the Fifth Pay Commission has given them only replacement scale. We find that the contentions of the applicants that they are, in fact, performing the duties of a Lecturer has been denied by the respondents. It is also the admitted position that they do not have the requisite qualification for the post of lecturers. It is not for the Tribunal to make an assessment and come to a finding as to whether they are, in fact, performing all the duties of a Lecturer. We have to go on the basis of the materials on record. They do not have the requisite qualification as per the Recruitment Rules and they have not clearly established that they are performing all the duties that are required of a Lecturer. We do not agree with the

submission that they have a right to be called or remunerated at the level of Lecturers.

8. However, we find that the applicants seem to have performed duties which are more than what are expected of Demonstrators/Laboratory Assistants. In the written statement, there is an assertion that the applicants have been taking classes merely to impart basic knowledge to the jawans for upgradation of their trades at lower level and that diploma course classes are conducted only by the Junior Commissioned Officers and not by the applicants. This is not really borne out from the records made available by the applicants particularly alongwith the rejoinder and in MA/381/98. We find therefrom that the various courses run in the Science Group of the Faculty of Weapon Technology where the petitioners are engaged consists of 8 parts of which ^{only} one relates to upgradation course and another to Basic course. There are six others dealing with diploma subjects in Armament Engineering, Automobile Engineering, Instrumentation Engineering, Small Area Engineering and Electrical Engineering. We find from Annexure A-1 (collectively) that the applicant had been taking courses not only pertaining to upgradation or other basic course but also in some other subjects. We also notice from the certificate given by the Technical Adjutant dt. 14.3.98 as at Annexure A-11 that the applicant had been taking lecture classes on various subjects in the diploma and engineering and basic course, in the Science Group of this Faculty. In other words, they are engaged not only in upgradation and basic course but also in diploma courses. Prima facie, it is clear that the applicants had been assigned duties higher than they would be normally expected to perform. In such a situation there is a case for grant of some allowance to compensate

such additional duties. We however find that this matter was taken up in Civilian Welfare Committee held in October, 1982 ~~4s~~ enclosed with the OA. The question of any instruction allowance to the Laboratory Demonstrators and Laboratory Assistants was not considered on the ground that there is no provision for the same. We may in this context refer to Sl. No.13 dealing with the points of Instruction Allowance and the reply:-


Instructor Allowance -
Lab Demonstration. Lab Demo
and Lab Assts. who are engag-
ing theory classes upto Arm
Art level in addition to their
prescribed duties and who does
not have any further prospect
of promotion. It is requested
that the case for grant of
teaching allowance be conside-
red for Lab Demo and Lab Assts.


There is no provision exist for grant of instructor allowance to Lab Demos and Lab. Assts. Hence no action can be taken to initiate a case for grant of instructory allowance for Lab Demos/Lab Assistants will not be employed for other than their pre-scribed duties. Point closed.

9. It would seem that the question of grant of any instruction allowance has been turned down solely on the ground that no provision exists for the same, and besides there is an admonition that they should not be engaged in duties other than their prescribed duties. This stipulation however has not been implemented as it would be clear from the recent certificate given by the Technical Adjutant as at Annexure A-11. If the applicants are in fact engaged in duties higher than what are prescribed for the post, they can reasonably expect some compensation, for the same. We accordingly direct the respondents to go into the question of the additional duties performed by the applicant as contended by them with materials in support and then consider grant of suitable compensation for the period for which they had in fact performed duties higher than those prescribed for the post. They shall take a decision in this regard within three months from the date of

receipt of a copy of this order and communicate the same to the applicant immediately thereafter. If they come to a finding that the applicants had been shouldering ^{higher} ~~higher~~ responsibilities ^{than} what are prescribed for the post, they shall be compensated from 1st October, 1992 which is the date on which they have filed this OA.

10. With the ~~above~~ directions, the OA is finally disposed of.
No costs.


(P.C. Kannan)
Member (J)


(V. Ramakrishnan)
Vice Chairman

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OFFICE REPORT

O R D E R

01.99

The miscellaneous applicant to remove office objections within a fortnight. Adjourned to 22.02.99

Du
(P.C. Kannan)
Member (J)

W
(V. Ramakrishnan)
Vice Chairman

mb

22/2/99

objections have
not been
removed.
Today ems.
Safaya came
& she told
that orders
have been
complied with
by her and
nothing remains
to be done
thereover.
M.A. is
placed for
necessary
orders of
the Court
on 23/2/99.

S
22/2/99
by leg. ①

24.
25.02.99

Objections waived. Registry to give a regular number to M.A.st/887/98.

Ms. Safaya now says that the directions has since been complied with and she does not press ~~for~~ M.A for extension of time.

In view of this, M.A disposed of as not pressed.

W
(V. Ramakrishnan)
Vice Chairman

mb

ORDER

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(P.C. Kannan)
Member (J)

(V. Ramakrishnan)
Vice Chairman

mb

24.
25.02.99

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(V. Ramakrishnan)
Vice Chairman

mb