

(18)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JODHPUR BENCH,
J_O_D_H_P_U_R.

Date of Order : 03.5.2000.

O.A. NO. 498/1995

1. Rameshwar Lal, Son of Shri Kanhaiya Lal, Instructor, Diesel Training Centre, Bhagat Ki Kothi, Jodhpur, R/O Plot No. 58 C, Ladda Colony, Ratanada, Jodhpur.
2. Qamar Ahmad, Son of Shri Abdul Hai, Instructor, Diesel Training Centre, Bhagat Ki Kothi, Jodhpur, C/O Sr. D.M.E. Diesel Shed, Bhagat Ki Kothi, Jodhpur Residence : Q No.T-70 A Loco Colony, Merta Road.
3. Tara Chand, Son of Sheesulalji, Instructor, Diesel Training Centre, Bhagat Ki Kothi, Jodhpur C/O Senior D.M.E., Diesel Shed, Northern Railway, Bhagat Ki Kothi, Jodhpur.
4. Ghan Shyam Das, Son of Shri Devaki Prasad, Ex-Instructor, Diesel Training Centre, Bhagat Ki Kothi, Jodhpur R/O T-127, Purani Loco Colony, Jodhpur.
5. Mool Singh, Son of Shri Kanhaiya Lal Ex-Instructor Diesel Training Centre, Bhagat Ki Kothi, Jodhpur R/O T-151 A, Purani Loco Colony, Jodhpur.
6. A.W. Khan, Son of Shri A.H. Khan, Ex-Instructor, Diesel Training Centre, Bhagat Ki Kothi, Jodhpur, R/O T-112, Purani Loco Colony, Jodhpur.
7. Kishan Gopal, Son of Shri Ram Gopal, Ex-Instructor, Diesel Training Centre, Bhagat Ki Kothi, Jodhpur R/O Chaitanion-Ki-Gali, Gachha Bazar, Jodhpur.
8. Suraj Karan Shishodia, Son of Shri Panchu Singh, Ex-Instructor, Diesel Training Centre, Bhagat Ki Kothi, Jodhpur, R/O Panchwati Colony Near Hotel Residency, Jodhpur.

... Applicants

vs

1. Union of India - through
The General Manager, Northern Railway, Baroda House, New Delhi.

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2. The Railway Board - through
The Executive Director (MPP) and Training, Railway
Board Rail Bhawan, New Delhi.
3. Divisional Personnel Officer, Northern Railway,
Jodhpur.

... Respondents

O.A. No. 10/1996

1. P.S. Pandey, Son of Shri T.N. Pandey, Instructor,
Diesel Training Centre, Bhagat Ki Kothi, Jodhpur,
Residing at Q. No. 3105, Diesel Shed, Railway Colony,
Bhagat Ki Kothi, Jodhpur.
2. S.R. Vyas, Son of Shri Megh Raj Vyas, Ex-Instructor,
Diesel Training Centre, Bhagat Ki Kothi, Jodhpur,
Residing at Q. No. D-263 A, Rotary Circle, Jodhpur.
3. S.R. Singh Son of Shri Satyanarayan, Ex-Senior
Electrical Instructor, Diesel Training Centre,
Bhagat Ki Kothi, Jodhpur, Residing at Railway Workshop
Colony Qr. No. 3030, Jodhpur.

... Applicants

vs

1. Union of India through,
The General Manager, Northern Railway, Baroda House,
New Delhi.
2. The Railway Board - through :
The Executive Director (MPP) & Training, Rly. Board,
Rail Bhawan, New Delhi.
3. Divisional Personnel Officer, Northern Railway, Jodhpur.

... Respondents

Mr. J.K. Kaushik, Counsel for the Applicants.

Mr. S.S. Vyas, Counsel for the Respondents.

CORAM :

Hon'ble Mr. Justice B.S. Raikote, Vice Chairman
Hon'ble Mr. Gopal Singh, Administrative Member

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O R D E R

(PER HON'BLE MR. JUSTICE B.S. RAIKOTE)

Both these applications involve common question of law and facts, therefore, we dispose of the same by this common order.

2. The common grievance of the applicants is that the impugned order vide Annexure A/1 directing recovery, on the basis of the alleged over payment of 30 per cent of the Training Allowance, is illegal and without jurisdiction. It is the case of the applicants that their services were taken on deputation as Inspectors in Diesel Training Centre, Bhagat Ki Kothi Jodhpur, and they were entitled to 30 per cent of their salary as Training Allowance. The applicants, were, therefore, paid the training allowance at the rate of 30 per cent of their basic pay with effect from the different dates in respect of the different applicants. But the said payment of the 30 per cent allowance is now sought to be recovered vide Annexure A/1 on the ground that, that was an erroneous payment. Applicants submit that such payment at the rate of 30 per cent was not an erroneous payment and at any rate the same cannot be recovered from them at this juncture. On the other hand, the learned Counsel for the respondents submitted that so far as the Inspectors appointed in Diesel Training Centre, Bhagat Ki Kothi, Jodhpur, are concerned, payment of training allowance is provided only on the basis of Annexure R/7 dated 20.9.1995, at the rate of 15 per cent, therefore, the payment of such allowance at the rate of 30 per cent to the applicants was erroneous. The other grievance of the applicants is that the alleged recovery vide Annexure A/1 was ordered without giving any opportunity or without issuing any show cause notice.

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3. It is an established principle of law that whenever an order having civil consequence is issued such order shall be preceded with a show cause notice to the persons affected. In the instant case, we find that there was no show cause notice to the applicants before ordering the recovery of the alleged excess or over-payment. Such an action of the respondents would be contrary to the principles of natural justice. Since we propose to dispose of the applications only on the ground that of, no opportunity, this order shall not be taken as one decided on merits, though number of other contentions were urged by both the parties.

4. In view of the fact that Annexure A/1 was passed without any show cause notice to the applicants, the same is liable to be quashed for violation of principles of natural justice. Accordingly, we pass the order as under :-

5. The application is allowed. The impugned order Annexure A/1 (in both O.A.s) dated 28.9.1995, is hereby quashed. The respondents are given a liberty to issue show cause notice to the respective applicants and after considering the representation, if any, filed by the applicants, an appropriate order ^{may} be passed. Accordingly, both the Original Applications are disposed of. No orders as to cost.

GoPAl S. INGH
(GoPAl S. INGH)

Adm. Member

B.S. RAIKOTE
(B.S. RAIKOTE)

Vice Chairman

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Part XXXXV
Part XXXXVI
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Part XXXXVIII
Part XXXXIX
Part XXXX

Part II and III destroyed
in my presence on 27.10.06
under the supervision of
Section Officer (J) as per
order dated 23.10.06

Section Officer (Record)