

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

O.A. NO.63/2007

MONDAY THIS THE 18th DAY OF FEBRUARY, 2008.

HON'BLE DR. K.S. SUGATHAN, ADMINISTRATIVE MEMBER

Raju G,Draughtsman grade-1
GE(I)(P) NO.1, Ezhimala
Ettikulam PO
Kannur District, Kerala.

Applicant

By Advocate Mr. R. Premchand

Vs.

- 1 Union of India represented by the
Secretary, Ministry Finance, New Delhi.
- 2 Principal Controller of Defence Accounts
No.1 Finance Road,
Pune-411 001
- 3 The Commandant
College of Military Engineering
CME Post, Pune-411 031
- 4 Garrison Engineer (I)(P), B/R No.1
Ezhimala, Ettikulam PO
Kannur District, Kerala

Respondents

By Advocate Mr. TPM Ibrahim Khan, SCGSC

ORDER

HON'BLE DR. K.S. SUGATHAN, ADMINISTRATIVE MEMBER

The applicant in this O.A. Is presently working as Draughtsman Grade-I under the 4th respondent. Prior to his transfer to the 4th respondent's office he was working at the office of the Garrison Engineer [I], R & D Girinagar, Pune as Draughtsman Grade-II. While working

there the applicant was promoted and posted as Draughtsman Grade-I to the office of the 3rd respondent which is a category A institution under the Ministry of Defence meant for imparting training to Govt. Officials. The applicant worked under the 3rd respondent as faculty member other than permanent faculty member of the Soil Engineering and Material Testing Wing of the college of Military Engineering from 2.5.2002 to 30.11.2005. It is the contention of the applicant that as per the provisions of the memorandum dated 18.3.1998 issued by the Department of Personnel & Training he is entitled to get 15% of the basic pay as training allowance during the period that he served under the 3rd respondent. The applicant has sought the following reliefs in this O.A.:

- (i) to call for the records leading to Annexure A-13 and quash the same to the extent it denies training allowance to the applicant as recommended by the 5th Pay Commission and Annexure A-2
- (ii) to issue a direction to the 2nd respondent to accord sanction for payment of training allowance to the applicant at the rate of 15% of the basic pay drawn by him for the period from 2.5.2002 to 30.11.2005.
- (iii) to issue a direction to the respondents to pay training allowance to the applicant at the rate of 15% of the basic pay drawn by him for the period from 2.5.2002 to 30.11.2005.
- (iv) to issue such other orders or directions as this Hon'ble Tribunal may deem fit and proper in the interest of justice.

2 In support of the reliefs the applicant has contended that he worked as a Faculty Member of the Soil Engineering and Material Test Wing of the College of Military Engineering from 2.5.2002 to 30.11.2005 and as per the provisions of the memorandum dated 18.3.1998 he is entitled to

get 15% of the basic pay as training allowance. The respondent NO. 3 has certified that the applicant has joined the Institution as a faculty member other than a permanent faculty member and that he is not in receipt of any special pay/deputation duty allowance or CDTA. The training allowance was also sanctioned to the applicant vide office order dated 2.7.2004 issued by the 3rd respondent. It is clearly stated in this order (A-5) that the applicant is entitled to training allowance as he joined the college for training government officials as faculty member other than permanent faculty member.

3 The respondents have contested the O.A. and the respondent No. 4 filed a reply statement on behalf of the respondents. It is contended in the reply that:

(a) the posting order dated 20.2.2002 by which the applicant was posted as a faculty member other than permanent faculty member under the 3rd respondent is not available in their records.

(b) before admitting any claim audit parties are supposed to check all the relevant documents.

© whenever training is imparted to Government officials the weekly programmes are chalked out by the Institution indicating the name of the Instructor, duration of the training, subject covered, etc.

(d) the training allowance could not be paid to the applicant because of audit objection.

4 I have heard the learned counsel for the applicant Shri R. Premchand and the learned counsel for the respondents Ms. Jisha representing Shri TPM Ibrahim Khan, SCGSC. I have also perused the documents carefully.

5 The issue for consideration in this O.A is whether the denial of training allowance to the applicant during the period he served the respondent No. 3 is justified in the context of the evidence produced.

6 It is not disputed that the applicant served the respondent No. 3 namely the College of Military Engineering College as Draughtsman during the period 2.5.2002 to 30.11.2005. Vide memorandum dated 18.3.1998 the Government had introduced a scheme of granting training allowance at the rate of 15% of the basic pay to employees who joined training institutions for training government officials as Faculty Members other than permanent Faculty Members. The relevant portion of this OM reads as follows:

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"The undersigned is directed to say that in terms of this Department Office Memorandum No. 12017/2/UG-TRG dated 9 Jul 1992, the training allowance at the rate of 15% of the basic pay is granted to employee of the Government who joins training institutions meant for training Government officials, as faculty members, other than as permanent faculty members. Consequent upon the decision taken by the Government on the recommendation contained in para 106.21 of the Fifth Central Pay Commission, the President is pleased to decide that training allowance wherever it is admissible, shall be allowed at the rate of 15% of the basic pay in the revised scales of pay. This allowance shall not be granted to the permanent faculty members of the training institutes. The trainers who are granted training allowances shall not be entitled to special pay/deputation (duty)allowance or CDTA."

It would be seen that there are three conditions that have to be fulfilled for becoming eligible for the training allowance i.e. (a) the employee should be posted as a faculty other than a permanent faculty, (b) the employee should not be in receipt of any special pay/deputation (duty) allowance or CDTA and © the institution must be imparting training to government officials. In accordance with the provisions of the memorandum supra the third respondent No.3 approved the training allowance to the applicant by letter dated 2.7.2004 (A5). In the said letter it has been certified that

"Certified that the above individuals are entitled training allowance as they joined in this college for training Govt. officials as Faculty Members other than as permanent Faculty members. They are not in receipt of special pay/deputation (Duty) allowance or CDTA".

7 In response to the audit objection to the claim for payment of training allowance it has also been clarified in the letter dated 25.5.05 addressed to the PCDA, Southern Command from the office of the 3rd respondent as follows:

"1 Kindly refer your letter No. Pay/2/4/4234/Corr/VI dated 02 Mar. 2005

2 In this connection please refer our letter No. 11980/SEMT(N)Accts dated 14 Feb 2005 wherein the complete case is explained. Your contention that these individuals are engaged on training duties occasionally when permanent staff is out of station does not seem to be factual. The MES cadre staff is posted to this wing to utilise their experience and expertise for imparting training in the construction field. This wing is imparting training to the following courses on various aspects of Civil Engineering:

a) Mix design course for GREF Personnel

b) Quality Control and testing of Building Materials for MES Subordinates

© Soil Investigation and Pavement Evaluation course for MES personnel

(d) Quality Control and Quality Assurance course.

3 The details of services of the individual utilised for imparting training to student of various courses is enclosed as Appx. A

4 It is once again confirmed that the services of the individuals are being utilised for imparting training to the students and they are entitled to draw training allowances in terms of Vth CPC recommendations they are posted as faculty member other than as permanent Faculty Member."

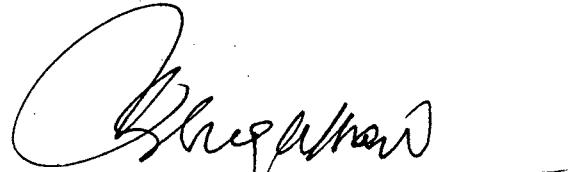
8 However, the Audit has reiterated its objection on the ground that the name of the applicant was not mentioned in the weekly training programme. As a result the applicant has been denied the training allowance admissible as per the memorandum of the DOPT. A perusal of the document submitted by the applicant as well as by the respondents clearly indicate that the applicant has functioned as Faculty Member other than permanent Faculty Member. It has also been certified by the respondent No. 3 that he is not in receipt of any special pay/deputation (duty allowance or CDTA. All the conditions stipulated in the OM dated 18.3.1998 thus stand fulfilled. It is nowhere stated in the OM dated 18.3.1998 that the name of the employee must be shown in the weekly training programmes. What is required is a certificate from the concerned training institute that the employee is eligible as per the conditions stipulated. Such a certificate has been given by the Training Institute.



There is therefore is no justification for the respondents to deny the claim of training allowance admissible to the applicant.

9 For the reasons stated above, the O.A. is allowed. The respondents are directed to pay the training allowance @ 15% of the basic pay for the period 2.5.2002 to 30.11.2005 to the applicant within a period of three months from the date of receipt of this order. No costs.

Dated 18-2-2008.



DR. K.S. SUGATHAN
ADMINISTRATIVE MEMBER

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