

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM

O. A. No.
~~XXXXXX~~

57

1991

DATE OF DECISION 28.2.1991

S. Velayudhan Nair & 11 others Applicant (s)

Party in person Advocate for the Applicant (s)

Versus

UOI rep. by its Secretary to Respondent (s)
Govt., Deptt. of Posts, New Delhi & 7 others

Mr. TPM Ibrahim Khan Advocate for the Respondent (s)

CORAM:

The Hon'ble Mr. S. P. Mukerji - Vice Chairman

and

The Hon'ble Mr. A. V. Haridasan - Judicial Member

1. Whether Reporters of local papers may be allowed to see the Judgement? *Yes*
2. To be referred to the Reporter or not? *No*
3. Whether their Lordships wish to see the fair copy of the Judgement? *No*
4. To be circulated to all Benches of the Tribunal? *No*

JUDGEMENT

(Mr. A. V. Haridasan, Judicial Member)

In this application filed under Section 19 of the Administrative Tribunals Act, the applicants have prayed that the Annexure-VI order, stating that persons undergoing pre-promotional training are not entitled to TA and DA may be quashed, and that it may be declared that the applicants are entitled to draw DA for their deputation for pre-promotional training.

2. The facts of the case can be briefly stated as follows. The applicants who are employees in the Railway Mail Service, Kerala Circle, Department of Posts were

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selected for appointment as Sorting Assistants being successful in a competitive examination and were directed to attend non-residential training class for induction training to be commenced at the conference hall of Ernakulam Head Post Office building on 12.11.1990, for a period of 2 months and 3 weeks ending on 31.1.1991. As the applicants were working in different places namely, Tellicherry, Calicut, Palghat, Shoranur, Trichur, Alleppey, Kottayam, Quilon and Thiruvananthapuram, and as the training programme was non-residential, they had to make their own arrangements for stay at Ernakulam during the period of training. The petitioners were told that, they would not be eligible for DA during the period of training as per orders from Director General, Department of Posts, New Delhi on the subject vide No.15-16/80 PAP dated 8.3.1989. The petitioners being low-paid employees it was beyond their means to meet the expenses in connection with their stay at Ernakulam. The petitioners therefore represented the Director General, Post & Telegraph, New Delhi endorsing copies to the Chief Postmaster General, Trivandrum and Postmaster Generals at Ernakulam and Calicut on 16.11.1990 requesting to consider their case sympathetically and to issue orders for payment of DA. Since they did not receive any favourable order, the applicants have filed this application praying that, an order may be passed declaring that they are entitled to DA during their pre-promotion^{al} training.

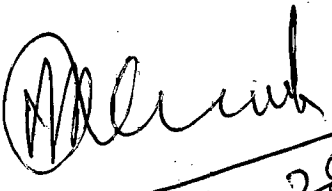
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It has also been stated in this application that, in an exactly similar case in OA 315/89 this Tribunal has issued an order in the lines as prayed for in this application.

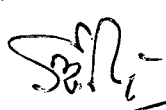
3. Though the respondents were given several opportunities to file the reply statement, they did not file any statement. Ultimately on 11.2.1991, we heard the counsel on either side with the available pleadings.

4. In OA 315/89, when the Postal Department refused to pay DA to Postman who were undergoing pre-promotional training on selection to the post of Postal Assistant basing on Director General, Post and Telegraph's letter dated 8.3.1989, where it was clarified that certain classes of officers deputed for training would not be entitled to get daily allowances, by judgement dated 18.12.1989 to which both of us were parties, we have held that the letter of DGP&T dated 8.3.1989 being opposed to the provisions of Fundamental Rule 164, it is invalid and inoperative. We ^{had} declared that the applicants in that case were entitled to TA & DA for their training prior to their appointment in the higher post of Postal Assistants. The same clarificatory letter issued by the DGP&T is the impugned order in this case. Since we have already struck-down this clarificatory order as invalid and inoperative, there is no justification for denying the applicants DA for their ^{pre-}promotional training. Therefore, we allow this application and declare that the applicants are entitled to DA

during the period of their ^{pre-}promotional training between
12.11.1990 to 30.1.1991 and direct the respondents to
disburse them the DA within a period of three months from
the date of communication of this order. There is no
order as to costs.


(A.V. HARIDASAN)
JUDICIAL MEMBER

28/2/91


(S.P. MUKERJI)
VICE CHAIRMAN

28/2/91

28.2.1991