

**Central Administrative Tribunal
Lucknow Bench Lucknow**

**Original Application No.78/2006
This, the 31st day of March 2009**

HON'BLE MR. M. KANTHAIAH, MEMBER (J)

Jiwan Nandi Choudhary aged about 57 years, son of Late K.K. Nandi Choudhary, residing at 554/214-Gha/2-K, Saha Niwas, C/o Mr. H.M. Saha, Bheem Nagar, Alambagh, Lucknow.

...Applicant.

By Advocate:- Shri Pawan Srivastava for Shri Y.S. Lohit.

Versus.

1. Union of India through General Manager, Northern Railway, Baroda House, New Delhi.
2. General Manager (Personnel), Northern Railway, Baroda House, New Delhi.
3. The Chief Track Engineer, Northern Railway, Baroda House, New Delhi.

... Respondents.

By Advocate:- Shri N.K. Agrawal.

ORDER

BY MR. M. KANTHAIAH, MEMBER (J)

The applicant has filed the OA with a prayer to quash the impugned order dt. 21.10.2005 (Ann.A-1) and issue direction to the respondents to pay the training allowance at 15 % of the basic pay of the applicant for his performance as the Vice Principal of Thermit Portion Plant (TPP), NR, Lucknow w.e.f. 1.1.2003 to 8.2.2005 with consequential benefits on the following grounds:-

- (i). The impugned order dt. 21.2.2005 (Ann.A-1) is a non-speaking order.

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ii). the applicant is entitled for grant of training allowances quantified at 15 % of basic pay as per provision of Ministries decision circulated by GM (P) Circular dt. 13.2.2003 whereby, the training allowance was to be given w.e.f. 1.1.2003 itself.

(iii). The act of the respondents is discriminatory and arbitrary in paying the training allowances to the successor in the office and depriving the applicants for the same who was nominated as the facility member and was also recommended and approved for grant of the same.

2. The respondents have filed Counter Affidavit, denying the claim of the applicant stating that he is not eligible for such training allowance .

3. The applicant has filed Rejoinder Affidavit, denying the stand taken by the respondents and reiterated the pleas taken in the OA.

4. Heard both sides.

5. The point for consideration is whether the applicant is entitled for the relief as prayed for.

6. The admitted facts of the case are that the applicant while working on the post of Assistant Chemist and Asstt. Metallurgist (ACMT) in Group B service at Meerut in the month of December 2001 he was transferred and posted at Thermit Portion Plat (TTP) NR, Lucknow for the purposes of imparting the training to the welders in its Thermit welder training centers and he joined thereon on 6.12.2001. Ann-A-3 dt. 6.12.2001 is the joining report of the applicant. Admittedly the TTP consist of two wings (i) Manufacturing of portion of Thermit welding (ii). Thermit welding training centers for the purposes

of imparting training to the welders regarding new Thermit technological to the welders and to the supervisory training staff. During the year 2002, vide ministries letter dt. 25.2.2000, sanction for grant of training allowance at 15 % to the facility members of various training centers including TPP, Lucknow was allowed and subsequent a circular dt. 13.2.2002, clarified that aforesaid 15 % is to be read as 15 % of the basic pay w.e.f. 1.1.2003. A-6 dt. 13.2.2003 is the copy of the said circular. Thereafter, a notification was also issued on 13.5.2004 (Ann-A-7) that EXCN/TPP presently DYCE/TPP and ECMT/TPP are nominated as faculty members for Thermit welding training centers. Dy. CE/TPP shall be Principal and ACMT/TPP shall be Vice Principal of this training center and by the time of the notification, the applicant was working as ACMT/TPP, Lucknow. The applicant continued to perform the duties as Vice Principal, of TPP/Lucknow up to 9.2.2005 till he was transferred to C&W, Alambagh but he was not paid the training allowance quantified at 15 % of the basic pay and upon which, he made representation dt. 5.7.2005 (Ann-A-5) claiming training allowance but the same was rejected vide impugned order dt.21.10.2005 (Ann.A-1).

7. It is also the case of the applicant that his successor officer Shri Gorakh Prasad, who has been worked as Vice Principal after the applicant is being given Rs.2537/- as the special pay i.e. the training allowance as against his basic pay of Rs. 11,500/- and in support of it he filed copy of the pay slip of Shri Gorakh Prasad as Ann.-A—5. It is also not in dispute that Dy. CEES circular dt. 13.5.2004 (Ann-A-7) was issued including the Principal and Vice Principal both of TPPE

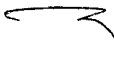
nominating them as the faculty member of Thermit welding training center and GM (P) Circular dt. 13.2.2003 (Ann.A-6) made the faculty members Gazetted and non-Gazetted entitled to the training allowed w.e.f. 1.1.2003. It is also not in disputed that since 6.12.2001 itself, the applicant has been performing the duties of Vice Principal of TPP, Lucknow up to 8.2.2005.

8. It is the case of the applicant that he has performed his duties as Vice Principal of TPP, Lucknow from 6.12.2001 to 8.2.2005 and also trained the staff in the training institute in addition to his own duties and as such he is entitled for training allowance at 15 % of the basic pay in pursuance of the circular dt. 13.2.2003 (AnnA-6) but the authorities have rejected his claim without assigning any reasons. But it is the case of the respondents that the applicant was temporarily transferred to TPP, Lucknow and posted alongwith post, where he will share the increased work load of TPP, Lucknow with ACMT/TPP, Lucknow as well as visit BWP Meerut 2-3 days in a week to fulfill the requirement of BWP, Meerut whereas, the circular dt. 13.2.2003 in respect of grant 15 % of training allowance to the faculty member is subject to assuming to full administrative charge of training center etc. They further stated that in this case no specific if order has been issued by GM , NR and in such cases screening is also being done by the Screening Committee but the applicant was not eligible for training allowance and as such the same has been intimated to him by impugned order dt. 21.10.2005 (Ann.-A-1).

9. The short and limited question involved in this case whether the applicant was temporarily transferred to TPP, Lucknow and full

administrative charge of training center was not given to claim the benefits of the circular dt. 13.2.2003 (Ann-A-6).

10. Admittedly, the respondents have not filed any documents to shows that the applicant was temporarily transferred to TPP, Lucknow, where to share the increased work load of TPP,/LKO with ACMT/APP/LKO. Ann-A-3 dt. 6.12.2001 joining report of the applicant clearly shows that he assumed charge of the post of ACMT/TPP, Lucknow on 6.12.2001 (FN). From the recitals of Ann.A-6 it is clear that the ministry has extended the benefits of grant of training allowance to the faculty members of altogether 91 training canter including TPP, Lucknow where the applicant was working on the post of ACMT/TPP, Lucknow. In pursuance of Ann.A-6 Northern Railway issued notification dt. 13.5.2004 (Ann.A-7) regarding faculty member of TTC stating XEN/TPP presently Dy . CEE /TPP and ACMT/TPP are nominated as faculty member for Thermit welding training center whereas, Dy. CE/TPP shall be Principal and ACMT./ TPP shall be Vice Principal of the training centre of the NR. Admittedly, on the date of issuance of the circular dt. 13.2.2003 and notification dt. 13.5.2004, the applicant was working as ACMT/TPP, Lucknow and in pursuance of such notification he was also designated as Vice Principal of Thermit training center. Pare-5 of the circular dt. 13.2.2003 (Ann.A-6) has furnished the guidelines for sanction of the training allowance. Admittedly, the applicant was a faculty member and he discharged duty to impart training to the trainees and as such, he is justified in claiming the benefit which came to into w.e.f. 1.1.2002.



11. It is also the specific case of the applicant that his successor in office Shri Gorakh Prasad, who is working as Vice Principal is being given the training allowance and filed the copy of pay slip for the month of December 2005 (Ann-A-10) which also shows that 15 % of the basic pay was paid to him as special pay . The respondents have simply denied payment of such training allowance to Shri Gorakh Prasad but they have not given any proper explanation in respect of such payment shown to him in his pay slip for the month of December , 2005 and it also shows discrimination towards the applicants claim. Further, the impugned order dt. 21.10.2005 (Ann-A-1), no reasons have been assigned for rejection of the claim of the applicant. Though the respondents contended that the matter has been placed before screening committee, but they have not placed any of the material in respect of the consideration of the claim of the applicant by the screening committee and also the grounds on which they rejected the claim of the applicant. All these circumstances clearly shows that the impugned order is liable to be set-aside and further the applicant is justified in such claim and as such he is entitled for training allowance.

In the result, impugned order dt. 21.10.2005 (Ann.-A-1) is set-aside with a direction to the respondents to pay the training allowance to the applicant w.e.f. 01.01.2003 to 08.02.2005. No costs.


(M. KANTHAIYAH)
MEMBER (J)

31.03.2005

Amit/-