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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
BOMBAY BENCH

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O.A. NO: 304/88

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T.A. NO: ---

DATE OF DECISION

29-9-1992

V.H.Sharma and 44 ors.

Petitioner

Mr.D.V.Gangal

Advocate for the Petitioners

Versus

Union of India

Respondent

Mr.V.G.Rege

Advocate for the Respondent(s)

CORAM:

The Hon'ble Mr. Justice S.K.Dhaon, Vice-Chairman

The Hon'ble Mr. M.Y.Priolkar, Member(A)

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

mbm\*

*S.K.*  
(S.K.DHAON)

MD

(11)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL  
BOMBAY BENCH

O.A.304/88

V.H.Sharma and 44 Ors.,  
Senior Engineering Instructor,  
Garud Plots, Opp.Pushpa Pictures,  
Bhusawal. .. Applicants

vs

1. Union of India
2. General Manager,  
Central Railway,  
Bombay V.T.
3. The Principal,  
Zonal Training School,  
Central Railway,  
Bhusawal. .. Respondents.

Coram : HOn'ble Shri Justice S.K.Dhaon,  
Vice-Chairman.

Hon'ble Shri M.Y.Priolkar,  
Member(A)

Appearances:

1. Mr.D.V.Gangal  
Advocate for the  
Applicants.
2. Mr.V.G.Rege  
Counsel for the  
Respondents.

ORAL JUDGMENT: Date:29-9-1992  
(Per S.K.Dhaon, Vice-Chairman)

The applicants who are employed in Training institutions meant for training officers other than those relating to Group "A" officers are aggrieved by a communication dtd. 28th March, 1989 by the Railway Board which provides that the benefit of certain incentive scheme would be given to them with effect from 1st April, 1989.

2. A reply has been filed on behalf of the respondents, rejoinder affidavit has also been filed, counsel for the parties have been heard at considerable length.

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3. The undisputed facts are these: Prior to the recommendation of IVth Pay Commission the applicants were receiving a special pay @ 12.5% of the total pay received by them. The IVth Pay Commission made a recommendation that the rate of special pay may be doubled, however, it added a rider that the total payment shall not exceed Rs.500/- towards special pay. On 29th October, 1986 the Railway Board sent a communication that instead of rate being doubled the quantum of special pay would be doubled. Finally on 28-3-89 the Railway Board took a decision that the faculty members, both gazetted and non-gazetted drawn on deputation from the field for the purpose of imparting training in the nine Zonal Railways and three Technical Training Schools in CLW, DLW and ICE may be granted certain incentives, one of them being teaching allowance allowance at the rate of 30% of the basic pay in the revised scales of pay was to be given to them and the order would be effective from 1st April, 1989.

4. The argument is that there is no rational basis for segregating the applicants and others from those working as Instructors in the central schools for the purpose of giving incentive of 30% on different dates to two different sets. Both should be given the benefit of incentive of 30% from 1st January, 1986. There appears to be force in this submission. Not only the basis of classification, if any, is arbitrary but the classification has no nexus or reasonable relationship with the objects to be achieved by the introduction of the incentive scheme.

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5. Mr.Rege has in reply brought to our notice a communication of the Deputy Secretary (Training) dt. 7th February, 1986. His argument is that the said decision infact forms the basis for fixing two different dates. Let us examine this document ~~rather~~ closely. It appears that a certain decision was taken in the meeting convened by the Cabinet Secretary to formulate a uniform basis to be adopted to work out the details of the incentives to be extended to the faculty of the training institutions under the control of different Ministries/ Departments, so as to attract the best trainer talent. It also appears that the meeting was convened at the instance of Secretary, Ministry of Finance, Department of Expenditure. Certain guidelines were laid down ~~fixed~~ in the decision taken at the said meeting. The first guideline, on which reliance is placed by Mr.Rege, was to the effect that it might not be feasible to take up all the training institutions simultaneously for the purpose of giving the benefit of incentive so as to attract <sup>the</sup> best trainer talent. Therefore, any incentive scheme that may be drawn up should cover the training institutions meant for Gr. 'A' officers in the beginning and gradually extended to others. (It is not disputed that the training institutions meant for Group 'A' officers are the institutions which are run by the central schools) We may now come to the ~~viii~~ guideline. It provides that the incentive worked out on the basis of the guidelines will take effect from January 1, 1986 so that any delay in issue of actual orders by the respective Ministries/Departments will not be prejudicial to the deputationists serving in training institutions at present.

We have considered this document carefully and we are of the opinion that ~~instead of~~ helping the respondents it supports the case of the applicants. The thrust of the decision taken on 7-2-86 is, that to begin with incentive may be given to the training institutions meant for Group 'A' officers but so far as the cut off date as fixed namely January 1, 1986 is concerned the same, it is intended, should have a universal application. To put it differently, it conveys the idea that the date namely 1st January, 1986 would become applicable to all the institutions to which the incentive scheme is extended. Therefore, there can be no escape from the situation that the subsequent decision taken by the Railway Board on 28th March, '89 runs contrary to the decision taken on 7th February, 1986 as contained in Ex. 'A' to the reply filed on behalf of the respondents.

6. Mr. Rege then relied upon Ex. 'B' which is a office memorandum dt. 31st March, 1987 issued by the Ministry of Personnel, Public Grievances and Pensioners. This document proposes to draw up fresh guidelines. It keeps in tact the training allowance @ 30% of the basic pay drawn from time to time in the revised scales of pay. However, in guideline (xii) it is laid down that the incentive, ~~subject to the following conditions~~ insofar as they relate to training institutions primarily meant <sup>training</sup> for group 'A' officials, will take effect from 1st January, 1986 and the same will take effect in respect of others with effect from 1st January, 1987. Mr. Rege also placed reliance on guideline No. (xiii) which provides inter-alia that each Ministry/Department will issue ~~xx~~ orders in

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pursuance of the said guidelines in consultation with their Integrated Finance and a separate reference to the Establishment Division of the Department of Expenditure (Ministry of Finance) will not be necessary. This document, no doubt, fixes two different dates namely 1st January '86 in the case of training institutions primarily meant for training Group 'A' officials and 1st January '87 in the case of other training institutions. However, no reason is given as to why the two dates are provided.


7. We may now turn to the reply filed on behalf of the respondents by Deepak Dave, Principal, Zonal Training School, Central Railway, Bhusaval. The material averments are these: January 1, 1986 had been fixed as the outer limit for giving effect to the incentive scheme. The decision to give the benefit of the incentive scheme to the Trainers/Gazetted and Non-gazetted Instructors working in the zonal/system/Technical training institutions w.e.f. 1.4.89 was a conscience decision. The assertion made by the applicants that there is no substantial differentiation between the Instructors of the centralised training institutions and zonal training schools is denied.


8. We may emphasise that in the reply filed on behalf of the respondents some attempt may have been made to demonstrate that there is a qualitative difference between the Instructors imparting training to Group 'A' officers and working in the central schools and others working in other institutions and not imparting training to Group 'A' officers. But, in our opinion, no serious effort has been made to demonstrate as to what impelled

the authorities concerned to fix two different cut off dates. The object of giving the incentive is to attract best talent. Surely it cannot be anybody's case that talent is not required in the case of those not working in the central schools. Talent, therefore, would be<sup>a</sup> necessary ingredient for giving employment in both the type of institutions. Different rate of incentives had not been prescribed for reasons best known to the authorities. Same rate viz. 30% of the pay drawn from time to time has been fixed for both the type of employments. We, therefore, find that there is no nexus whatsoever between 1st April, 1989 in one case and 1st January, 1986 in another case with the object of the scheme viz. the attraction of best talent. Even the new doctrine of Article 14 viz. Arbitrariness would be attracted in this case. We are, therefore, of the opinion that there is no justification for not giving the benefit of the incentive scheme to the applicants w.e.f. 1st January, 1986 as in the case of those who are imparting training in the central schools.

9. This application succeeds and allowed. We direct the respondents to give the benefit of incentive scheme to the applicants w.e.f. 1st January, 1986. The respondents shall compute the amount payable to the applicants within a period of six months from today and make the necessary payments to the applicants within a period of one month from the date of computation of amount payable.

10. There shall be no order as to costs.

  
(M.Y. PRIOLKAR)  
Member(A)

  
(S.K. DHAON)  
Vice-Chairman