

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
MUMBAI BENCH, MUMBAI.

ORIGINAL APPLICATION NO.146/2000

Thursday this the 22nd day of March 2001

Coram: Hon'ble Shri B.N.Bahadur, Member (A)

1. B.C.Biswal,
Type PL-6-16-6,
Sector - 17,
New Panvel - 410206.
2. N.K.Pandey,
Flat No.KL-6-7-8,
Sector - 3E,
Kalmaboli,
New Mumbai - 410 218.Applicants.
(Applicants appeared in person)

Vs.

1. Assistant Chief Accounts Officer,
Central Excise,
Mumbai - VII,
1st Floor,
C.G.O. Complex,
CBD, Belapur.Respondents.
(By Advocate Shri M.I.Sethna)

O R D E R

{Per Shri B.N.Bahadur, Member (A)}

This is an OA filed by two Applicants who have come to the Tribunal with a grievance that they have not been paid TA/DA in accordance with the Rules, challenging the orders of the Respondents dt. 1.10.1999 and 15.10.1999 rejecting the claims of the Applicants. The case of the Applicants is that they were deputed for training to NACEN, Bhandup, Mumbai - 400 072 and were released by their Offices at Rasayini and Dy. Commissioner, Mumbai - VII on 4.12.1998 and 27.8.1999 respectively. Applicant No.1 has undergone training between 7.12.1998 and 18.12.1998 at

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the aforesaid NACEN, but was informed in December, 1998 that he is not entitled to TA/DA claim in view of Ministry's letter dt. 15.12.1988. It is stated that the place of training i.e. Bhandup is situated at a distance which is more than 8 kms. away from the place of his permanent posting i.e.

Patalaganga, District Raigad and the exact distance between Rasayani and Bhandup is 60 kms. Similarly, in regard to Applicant No.2 who attended the training between 30.8.1999 to 10.9.1999, the distance is 40 kms. from Kalamboli. Applicant No.2, it is stated, stayed in the Academy and even paid some amount as staying charges. It is argued that the Applicants have proceeded on training for official cause and depriving them of normal TA/DA causes them undue hardship.

2. The Respondents in the case have filed a written statement, where the claims of the Applicants are resisted, and the defence taken that under Order No.1 under SR 164 no TA/DA is admissible in case the Government servant is deputed for training at Headquarters station, and that such a Training Centre should be deemed as temporary Headquarter, during the period of training. Similarly, it is averred that whatever be the distance from the normal duty point from the institution of training, no TA / DA will be admissible.

3. It is therefore, contended that the claims of the Applicants for training at Bhandup Academy were rejected. Para 3A of OM dt. 27.11.1965 is sought support of to make the point that Mumbai and Navi Mumbai are one and the same station. HRA is given at Mumbai rates in Navi Mumbai, it is further asserted.

4. Applicant No.2 Shri Pandey argued the case on behalf of Applicants and Shri V.D.Vadhavkar (for Shri M.I.Sethna) represented the Respondents. I have considered the arguments made by both sides and have seen all papers in the case, and the Rules cited. Applicant No.2 made the point that the normal Rules envisaged that any journey made to a place which is 8 kms. away from the location of the Office is entitled to TA/DA, irrespective of the place of residence. He argued that SR 164 was mis-represented, and that he was never supplied with the orders dt. 15.12.1988 which had been made the basis for rejecting their claims. It was argued that the point taken in reply about the rates of HRA being paid to Applicants at Mumbai rates was not relevant to the issue, and that Applicant No.1 was 60 kms. away from the place of training and Applicant No.2 was 40 kms. away. Shri Pande took me over various Rules/ Annexures in support of his arguments.

5. Arguing the case on behalf of the Respondents their Learned Counsel Shri Vadhavkar reiterated the points made in the written statement and highlighted the following.

- a) the case had to be decided squarely within the FRs/SRs and instructions, which were sacrosanct.
- b) SR 164 is the special provision for training, and hence would be the relevant provision as per rules. The normal Rules would be governed by this provision, which would be special against the normal.
- c) It was clear that no TA / DA could be paid in the same Headquarters, and Mumbai and Navi Mumbai are the same for this purpose for reasons expounded in the written statement.
- d) The Learned Counsel also took objection to filing Joint application and said that these claims are individual and hence no Joint application is maintainable.

6. Let us first deal with the point regarding the argument against filing of joint application. The issue raised is the same, the applicants are similarly situated and the argument taken by Respondents is hyper-technical and can straightaway be rejected in the interest of substantial justice.

7. It is true that the matter is such as will have to be decided within the four-corners of the Rules. In the first place, it is seen that the normal Rules provide that in case of a tour or deputation beyond 8 kms. from the place of Headquarter of the office, the officer should be provided with TA/DA as per eligibility. It is also true that SR 164 provides for the contingencies of training. The argument taken here is that no TA/DA could be paid when training is held in the same headquarter and the point made is that Navi Mumbai and Mumbai are the same Headquarter on the ground that the same rate of HRA is paid in Navi Mumbai as in Mumbai. Also on the ground that conglomerates of Metropolitan Cities should be considered as the same station.

8. Now, let us consider this argument against the hard facts in this particular case. I have before a case of a large area of Navi Mumbai and the Headquarters of the two Officers are separated from the place of training by as much as 60 kms. and 40 kms. respectively. The officers have proceeded, admittedly for all this distance and have (at least one) stayed at the Training Institute. Could it be fair to consider this as the same Headquarter, on the basis that the HRA rates are same. It is not at all acceptable that there could be a nexus between the HRA rates being the same and eligibility to TA/DA when such

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distances are involved. It is not even a technical argument and certainly not a justifiable one given the distances and the fact that one of the largest Metropolis in the world is involved.

9. It is a well known principle that TA/DA should not become a source of income to any Government Official. It is merely provided to meet the costs that are incidental to the travel and stay entailed away/from headquarters. But, on the same principle, it would be only fair to ensure that travel on duty/training does not become a cause for undue financial hardship to the Government Servant.

10. In the facts and circumstances of this case, the Tribunal is of the clear opinion that denial of TA/DA as per normal availability will be wrong and the stand taken by the Respondents is therefore, not correct. This OA, therefore, deserves to be allowed and is allowed in terms of the following orders:

ORDER

The impugned orders/communications are quashed and set aside and the Respondents are directed to calculate and pay the TA/DA to the two Applicants as per normal Rules and entitlements on the facts of each case. Such payment should be made within a period of three months from the date of receipt of copy of this order. No interest will be payable. No orders as to costs.

B. Bahadur

(B.N.BAHADUR)

MEMBER(A)