

(3)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH
CIRCUIT SITTING AT NAGPUR.

O.A.NO. 484/90
TR.A.NO.

199

DATE OF DECISION 25.4.1994

Shri P.L.Verma & Ors.

Applicant(s)

Versus

Chief Project Manager, Rly. Electrification, NGR Respondent(s)

1. Whether it be referred to the Reporter or not ? ^M
2. Whether it be circulated to all the Benches of the Central Administrative Tribunal or not ? ^M

MEMBER


(M.S. DESHPANDE)
VICE CHAIRMAN

mbm

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH, BOMBAY

(6)

CAMP : NAGPUR

OA NO. 484/90

Shri P.L.Verma & Ors. ... Applicants

V/S.

Chief Project Manager,
Railway Electrification,
Kingsway, Nagpur. ... Respondents

CORAM: Hon'ble Vice Chairman Shri Justice M.S.Deshpande

Appearance

Shri M.M.Sudame
Advocate
for the Applicants

Shri P.S.Lambat
Advocate
for the Respondents

ORAL JUDGEMENT

Dated: 25.4.1994

(PER: M.S.Deshpande, Vice Chairman)

The applicants were selected by the Railway Service Commission for the post of Apprentice Mechanics (Electrical), Senior Draftsman, Signal Inspector and Telecom Inspectors as stated in Annexure-I to the application and worked as Apprentices during the period 1982 to 1985 under the Chief Project Manager, Railway Electrification, Nagpur. They were made to work on the programme of Railway Electrification as the department was short of man power, though the applicants were supposed to receive instructions and training in the Institutions provided by the Railways. Due to urgency and pressure of work and non-availability of staff, they were deputed to supervise various works which would have been otherwise supervised by the regular staff employed under the Railway respondents. During the apprenticeship period, the applicants



used to receive Rs.380-392 + D.A. as stipend. However, under the instructions of the Competent Authority, the applicants were paid TA/DA for the work done by them during the Apprenticeship period which was of regular nature. In 1986, the Audit Department had raised an objection for payment of TA/DA to the applicants. On 31.5.1986 it was observed by the Addl.CEE/RE/NGP that considering the fact that the deployment of Apprentices on the RE Project was some thing quite different from routine training in an institutionalised manner, payment of TA/DA for in-service assignments was considered quite in order in administrative interest. However, taking into account the observations made by Audit and pending finalisation of the matter at the appropriate level, it was proposed that in the interim period, TA for the journeys to and from the place of training, as admissible under para 331 (1) (a) could continue to be paid to the Apprentices.

2. On 17.7.1986 the minutes of the meeting held on 31.5.1986 by several authorities were prepared where the ACEE pointed out that for journeys in connection with in service Training regarding supervision of RE works T.A. was permissible in terms of Rule 331(1) read with Rule 331(4), only for halts at the place of Training no D.A. was permissible in terms of Rule 331(2). He also stated that the service Training being at different points on a day to day basis, TA for the day's journeys can be admitted in terms of Rule 331(1) except where the training is concentrated for days at yards/stations when the first and last journeys alone will qualify for TA. The Addl.FA&CAO(RE) pointed out that for journeys not for the purpose of

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Training, apprentices may not be utilised and no payment of TA/DA be allowed. By virtue of the objection raised, the applicants were required to refund the amounts which were paid to them and they have approached the Tribunal challenging the order by which the amounts came to be recovered.

3. Shri Lambat, learned counsel for the respondents stated that Rule 331 would not be applicable. It is only appropriate to quote the entire Rule 331.

"331.(1) When a railway servant is selected to undergo a course of training, he may draw travelling allowance as on tour -

(a) for the original journey to and the last journey from the place of training.

(b) if the training is at a school, college or ~~similar~~ institution, for similar journeys on the occasion of holidays and vacations, and

(c) for journeys during the course of training.

(2) For halts at the place of training, daily allowance may be allowed at full rates if the halt does not exceed ten days at three-fourths rates for next 20 days and half rates thereafter upto a maximum of 90 days. These orders do not apply to Probationers or persons in receipt of stipend or to such Railway servants undergoing training in Rly. Training schools as are granted free messing or messing allowance in lieu of daily allowance under special orders.

(4) A person not already in Rly. Service, who is selected to undergo a course of Training with a view to appointment in Rly. Service, may be allowed travelling allowance as in sub-rules (1) & (2) at a scale not exceeding that admissible to Rly. servants of similar status on duty at the place of Training."

4. Shri Sudame, learned counsel for the applicants urged that applicants' case would fall under Rule 331 (1) (a) and (c) and (4) while Shri Lambat urged that the second sentence in sub-rule (2) would make the entire order inapplicable.

(a)

It must be noted that sub-rule (1) & (4) refers to travelling allowance while sub-rule (2) refers to daily allowance. In the present case, no daily allowance is being claimed by the applicants.

According to Shri Lambat, the reference in the second sentence which is to "These orders" ^{would} not apply to Probationers or persons in receipt of stipend or to such Railway servants undergoing training in Rly. Training schools as are granted free messing or messing allowance in lieu of daily allowance under special orders. Obviously, the words "These orders" can apply only to the orders to which reference has been made earlier, i.e. in the first part of sub-rule (2) which ^{has} have bearing upon the question of daily allowance. They cannot have any application to the question of travelling allowance which falls within sub-rule (1) & (4). The reason why the application of the term "These orders" shall have to be limited only to the daily allowance and not travelling allowance is apparent from the fact that the probationers are the stipenderies who are not entitled to daily allowance because they are granted free messing or messing allowance in lieu of daily allowance under special orders. It is, therefore, clear that subject of travelling allowance will not be governed by the latter part of sub-rule (2) and the interpretation sought to be put by the CEE on these rules was correct.

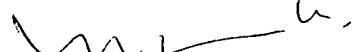
5. It is apparent that though the applicants were not expected to do any duty for the purpose of Railway Electrification, their services were utilised because of the shortage of qualified man power. The rule position is very clear and in the circumstances I find that the decision



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taken to deprive the applicants of the travelling allowance to which they were entitled under the rules cannot be supported.

6. In the result, the application is allowed. The order dated 15.6.1990 is set aside. The respondents are directed not to recover the amount of travelling allowance paid to the applicants and whatever recoveries may have been made towards the amount paid as travelling allowance shall be refunded to the applicants within two months from the receipt of a copy of this order.


(M.S. DESHPANDE)
VICE CHAIRMAN

mrj.