

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

Second Floor,
Commercial Complex,
Indiranagar,
Bangalore-560 038.

Dated:- 18 APR 1994

APPLICATION NUMBER: 821 of 1993.

APPLICANTS:

Mr. Osborne Mckertich
To.

v/s.

RESPONDENTS:

The Chairman, Central Electricity
Authority, New Delhi and Other.

1. Sri. Rupert M Rosario, Advocate, No. P-54, Nineth Main,
Sector-XII, Jeevan Bhima Nagar, HAL-III Stage,
Bangalore-560 075.
2. The Under Secretary(A),
Central Electricity Authority,
Sewa Bhavan, R.K. Puram,
New Delhi-110066.
3. Sri. M.S. Padmarajaiah, Sr. CGSC, High Court Bldg,
Bangalore-1.

Subject:- Forwarding of copies of the Orders passed by the
Central administrative Tribunal, Bangalore.

Please find enclosed herewith a copy of the ORDER/
STAY ORDER/INTERIM ORDER/, passed by this Tribunal in the above
mentioned application(s) on 04-04-1994.

Issued on
19/4/94

R

c/c

Se. Shanhar

for

DEPUTY REGISTRAR 19/4
JUDICIAL BRANCHES.

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CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH: :BANGALORE

ORIGINAL APPLICATION NO.821/93

MONDAY, THE FOURTH DAY OF APRIL, 1994

Shri V.RAMAKRISHNAN, MEMBER (A)

Shri A.N.VUJJANARADHYA, MEMBER (J)

Osborne Mckertich,
S/o Mr. Victor Mckertich,
Resident of Bangalore
Driver, Hot Line Training Centre,
6/7, Crecent Road, Asha Nagar
High Grounds,
Bangalore-560 001.

...Applicant

Advocate by Shri Rupert M.Rosario.

Versus

1. The Chairman,
Central Electricity Authority,
Sewa Bhavan, R.K. Puram,
New Delhi-110 066.

2. The Director,
Hot Line Training Centre,
Central Electricity Authority,
Bangalore-560 001.

...Respondents

Advocate by Shri M.S.Padmarajaiah, S.C.S.S.C.

O R D E R

Shri V.Ramakrishnan, Member (A)

....2/-



The applicant Osborne Mckertich is presently working as Driver in the Hot Line Training Centre (HLTC for short) of the Central Electricity Authority in Bangalore. His grievance is that he has not been given Training Allowance, which is available to other members of the staff serving in HLTC. He prays that the respondents should be directed to pay him Training Allowance.

2. Grant of training allowance to officials serving in Training Institutions is governed by the instructions as contained in the OM issued by the Ministry of Personnel and Training dated 31st March, 1987. This OM is annexed to the application as Annexure IV. Para 2(i) of the OM reads as follows:-

"When an employee of Government joins a training institutions meant for training government officials, as a faculty member other than as a permanent faculty member, he will be given a "training allowance" at the rate of 30 per cent of his basic pay drawn from time to time in the revised scales of pay".

Para 2(ix) of the OM states that training allowance is admissible only to the faculty members whose work is to impart training/teaching and not to others. It is clear from this OM that the training allowance is admissible only to faculty members, whose job is to impart training/teaching.

3. The contention of Shri Rupert M. Rosario, the learned counsel for the applicant is that the applicant is also entitled to the training allowance for the reason that he is part of the Training Team and he has performed some specialised duties, which he is not called upon to do in the normal course. Shri Rosario also draws our

attention to the office order of Central Electricity Authority dated 13.10.1992 (Annexure-I), which states that training allowance is admissible to helpers etc. *h* An example, we may refer to Sl.No.6 of the order, under which one Shri Ahmed Ali Khan, Helper/Mechanic is granted training allowance of 30 per cent of his basic pay from 1.1.87 to 8.7.92. The counsel also tells us that training allowance is admissible even to such of the faculty members, who were on leave and also those Helpers/Mechanics, who are assigned other duties such as Chowkidar etc. Shri Rosario contends that if a Helper can be given training allowance, there is no reason why the Driver should not be given the same allowance. He argues that all of them are part of the same training team, which serve in the HLTC and it would be invidious to deny training allowance to the Driver, while granting the same to the others. Shri Rosario further submits that the nature of the duty of the applicant which includes carrying trainees and tools from one place to another and to drive special vehicles like power wagon etc., will show that he is also directly associated with the training ^{work} team. In this connection, he refers to certain office orders, issued by the department No. 168 dated 17.11.1989, 183 dated 8.12.1993 and 115 dated 29.9.1992, which call upon the applicant to drive power wagon etc. Shri Rosario submits that in view of all these the applicant is legally entitled to the training allowance in terms of OM dated 31.3.1987 as at Annexure IV.

4. Shri Padmarajaiah, the learned standing counsel

on the other hand, takes the plea that the applicant is not a member of the "faculty" and training allowance is admissible only to faculty members engaged in training/teaching. The learned standing counsel also takes us through the dictionary meaning of the term faculty and argues that it is not possible to regard the driver, who drives jeeps and power wagon as part of the faculty team in HLTC. He also submits that the nature of duties of the applicant are such that they cannot even be remotely constructed as imparting training/teaching. He highlights the fact that the HLTC have ~~set up~~ ^{imposed} training ~~for~~ work using live line maintenance techniques from transmission lines of 11,000 volts to 400000 volts. The job of the driver is not in any way related to the training aspect of the Institute.

Shri Padmarajaiah further contends that there is no discrimination by denying the training allowance to the applicant while extending the same to Helpers/Mechanics etc. He refers to para 5 of the objection statement, which reads as follows:-

"The main duties and responsibilities of the faculty is to impart training. In fact, the designation of Helper, a part of the faculty is not truly reflecting the duties and responsibilities associated with the post, since these persons are required to have a thorough knowledge of vast number of tools and equipments associated with LLMT, as well as have to possess clear conceptual and practical knowledge of the sequences of various LLMT operations. It is to be kindly noted that the Helpers/Mechanics in this institution have long years of association and experience in LLMT. It is also to be kindly noted that these Helpers/Mechanics and engineers have been trained by the foreign expert from M/s. A.B.Chance Co., USA, the suppliers of tools and equipment for LLMT on "Bare Hand Techniques."

....5/-

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The Helpers/Mechanics, even if they are called as such are, according to the learned standing counsel, performing duties of ~~labories~~ ^{technical} which relate to imparting training as such they can be regarded as faculty members. The applicant's task is to drive vehicle and he is not entrusted with responsibilities which has direct bearing on the training function of the Institution.

5. The crucial question for ~~discrimination~~ ^{determination} in this case is whether the applicant is a faculty member, whose work is to impart training/teaching. It is not in ~~dispute~~ ^{doubt} that the applicant does not impart any training/teaching. The contention that he carries trainees and tools from place to place by driving power wagon, would not, in our view be the same as imparting training/teaching. His case can also be distinguished from that of Helpers, whose nature of duty referred to supra, involves some specialised ~~duties~~ ^{functions} directly connected with training. Shri Rosario argues that whatever may be claim of the department, the nature of duties of helpers is quite simple and there is no reason as to why they should be given training allowance while denying the same to the applicant. From what has been submitted before us by the department, it is clear that the helpers have some involvement in the training process. It is not for us to make a technical evaluation as to the nature of duties of helpers when it is ~~so~~ ^{seen} prima-facie that it has a direct bearing on the training. The department has made ~~an~~ ^a objective study in this regard and come the conclusion that the helpers' duties are such as to qualify them for

training allowance as they are part of the faculty. From what has been stated before us, we see no reason to disagree with the same. So far as the applicant is concerned, it is clearly stated that he carries a set of tools given to him by the concerned authorities from place to place. This would not entitle the applicant to be regarded as faculty member. As regards Shri Rosario's contention that the training allowance is also given to the helpers etc., even though they are doing other types of work not connected with training on specific occasions, he has produced no material before us to substantiate this allegation that even when helpers are not assigned any work relevant to the training process, that they are given training allowance merely because they are designated as helpers. In view of this, we are unable to take this contention seriously.

6. We, therefore, find no merit in the contention that the applicant should be given training allowance. If the applicant's stand is that he is performing special functions, which he would not be called upon to do as a driver in the normal course, he may, if he chooses to do so, file a representation to the department for grant of remuneration for performing such special functions. This however, would not be in the form of training allowance. If the applicant files any such representation, the department will consider the same objectively on merits and dispose of the same within three months from the date of receipt of such a representation.

7. With the above observation we dismiss the application relating to grant of training allowance. No cost.

Sd-

h/h
(A. N. VUJJANARADHYA)
MEMBER (J)

Sd-

h/h
(V. RAMAKRISHNAN)
MEMBER (A)

TRUE COPY

S. Shankar

SECTION OFFICER
CENTRAL ADMIN. & CONTROL
ADDITIONAL DEPT.
BANGALORE

