

THE CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, MUMBAI

Original Application No.360/1995

Dated this Tuesday the 2nd Day of January, 2001.

Coram: Hon'ble Shri B.N. Bahadur, Member (A)
And
Hon'ble Shri S.L. Jain, Member (J)

1. The National Union of Postal Employees, Class III, Maharashtra Circle, through its Circle Secretary, Shri Praphullachandra, Shankant Shivalkar, presently working as Assistant Postmaster, having his office at Dadar Head Post Office, Dadar, Bombay - 400 014.
2. Shri Keshav M. Salvi, presently working as Public Relation Inspector, Chinchbunder Head Post Office, Bombay 400 009. Applicants
(Represented by Shri B. Ranganathan for Shri S.R. Atre, Advocate)

VS.

1. Union of India through The Secretary, Dept. of Post, Ministry of Communication, Dak Bhavan., New Delhi 110 001.
2. The Chief Postmaster General Maharashtra Circle, Bombay G.P.O. Bombay 400 001.
3. The Senior Postmaster, Dadar Head Post Office, Dadar Bombay 400 014. Respondents.

(Shri S.S. Karkera, Advocate for Shri P.M. Pradhan, Advocate)

ORDER

[Per B.N.Bahadur, M (A)]

This is an Application made by two Applicants, the first one being Union of Postal Employees, and the second an individual who is aggrieved one. The grievance of the Applicants is that the Respondents have directed recovery to be made from the allowance (TA/DA) paid to the Members of the Union (and the

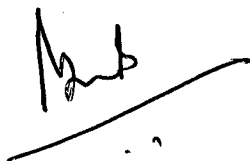
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Applicant while they were undergoing training at the Postal Training Centre at Vadodara (or denied payment in the manner claimed). The contention of the Respondents that Applicants are eligible only to the actual charges of boarding and lodging plus 1/4 Daily Allowance is challenged by the Applicants. The Applicants contend that they are entitled to full Daily Allowances for 30 days and at half rate thereafter.

3 2. The case of the Applicants is that the Applicants/Members were sent for In-Service Training at the Postal Training Centre at Vadodara, and had claimed full Daily Allowance. Daily Allowance as claimed was either not sanctioned or, in some cases, where sanctioned, had been ordered to be recovered. The Applicants have amended the Original Application and have added two prayers in the M.P. seeking amended reliefs. The communication dated 30.5.1996. has been made the base to claim that this benefit should be available for the earlier period also, i.e. period prior to 30.5.1996.

3. The main ground taken by the Applicants and argued before us by their learned Counsel, Shri Ranganathan (for Shri S.R.Atre) was that the Govt. decisions/orders at para No.2 & 4, under order No.3 under S.R. 164 provided a very sound case for the applicant's claim. The point was made that the Mess available at the Centre was run on Cooperative basis and in view of this, the provisions of Para 3 sub para (4) clearly came to the rescue of the Applicants. Hence, the D.A. should be made available in full for the first 30 days and at half rate for the next 150 days. The learned Counsel for the Applicants contended that it was this decision at paragraph (4) that was relevant and not the decision at subpara (2), the latter not being applicable in the

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case of the Postal Training Centre.

4. Another point that was sought to be reiterated was that the Telecommunication Department, provided D.A. for similar Training, in the same manner as was being claimed by the Applicants and that the Ministry being the same, the action of the Respondents in the present case amounted to hostile discrimination.

5. The Respondents have filed a reply resisting the claim of the Applicants. The stand of the Respondents in their Written Statement, as also taken by their learned Counsel (Shri S.S.Karkera for Shri Pradhan) was that no discrimination had been caused against the applicants. The Circular dated 30.5.1996 was referred to and it was argued that a conscious decision was taken by the Govt. that past cases would not be reopened. On the main issue the Applicants had contended that the GOI Orders No.3 and 5 below S.R. 164 were the ones applicable, and as per these orders, it was clear that the Applicants were entitled only to actual expenditure on boarding and lodging + 1/4 D.A.

6. It was argued by the learned Counsel for the Respondents that the arrangements at the Centre were such that the fixed actual charge was levied and hence the action of the Respondents was fully justified in terms of the rules.

7. This is a case where the issue before us will have to be decided squarely on the basis of the Rules. It is S.R.164 which is the relevant S.R. Firstly it clearly provides powers of the Govt. to lay down the scale at which the travelling allowance/ D.A. is to be fixed in such cases. Thus, it is clear that a basic power is available to Govt. to differentiate in regard to TA/DA that is payable for Training Courses. We shall now

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proceed to the Govt. of India Orders, that are available under the same S.R. 164.

Subpara No.2 reads as under:

2. In all cases of Government sponsored training programmes which are residential, and where boarding and lodging at the training institute are compulsory and are provided at fixed rates a special allowance in lieu of daily allowance will be admissible to Government servants deputed to undergo such training courses. The special allowance, irrespective of the period of the training course, will be calculated as follows:-

- (i) Outstation participants... Actual expenditure board and lodging plus 1/4 of full DA
- (ii) Local Participants ... Actual expenditure on board and lodging only

8. The point to be decided is whether a system being followed at the Training College at Vadodara is indeed one where the fixed actual costs can be provided. The main ground taken by the Respondents is that what is available is a system run on a cooperative basis and therefore, the orders on paragraph 3(4) will be applicable.

9. On perusal of the various papers, in the case and on consideration of the arguments made, we are not convinced that what the Respondents have done is wrong. No doubt it is the system where the management of the mess etc is with the trainees themselves, but since the actual cost which is incurred on boarding and lodging is provided as part of the D.A., apart from 1/4th allowance, it could not be said that the action of the respondents is unfair. Very clearly, the orders depended upon about the Mess which is run on cooperative basis entitling T.A.

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as claimed by the Applicant are not applicable to the applicants. In fact our attention is also drawn to orders of DOP&T's instructions at Decision No.5 under SR 164. This confirms the system as followed by Respondents.

10. T.A. and D.A. are not part of a post structure and it is well recognised that TA/DA cannot be a source of income. Also, it is clear from the facts and circumstances that no loss has been caused to the Applicants while undergoing training. Now, coming to the later Circular that has been issued as annexed by the Applicants in their M.P. No.597/96, at A.1 dated 30.5.1996, It talks of cases where boarding charges are not fixed and where Mess available is on cooperative basis and then orders required of D.A. at full rate for 30 days etc. It also states that the Orders will be applicable from 30.5.1996. This circular really conveys a change in the Policy, and it is not something that will entitle the Applicant to its retrospective application of this as a matter of right. Certainly as per law laid down by the Apex Court this Tribunal would not like to go into matters of Policy. It cannot be said that any discrimination can be said to have occurred in a matter regarding TA/DA. TA and DA matter cannot be looked at in the same way as some other like pay scales, consideration for promotion, etc.

11. In view of the above discussions, we do not find any reason to interfere in the matter. In consequence, this O.A. is hereby dismissed. No orders as to costs.

S.L. Jain
(S.L. Jain)

Member (J)

sj*

B.N. Bahadur
(B.N. Bahadur)

Member (A)

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