

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

O.A.No.965/92

Date of Order: 10-1-94

BETWEEN:

- | | |
|-----------------------|---------------------------------|
| 1. P.David Raju | 10. B.L.N.Somayajulu |
| 2. P.Krupa Chary | 11. A.Satya Murthy |
| 3. K.Thana Reddy | 12. K.V.S.R.Krishna Murthy |
| 4. G.S.Rama Prasad | 13. P.M.Krishna Rao |
| 5. M.Sambasiva Rao | 14. G.Hari Krishna |
| 6. G.Venkateswarlu | 15. D.Hanumantha Rao |
| 7. U.Sanjeeva Rao | 16. G.V.Nageswara Rao |
| 8. S.Ratna Gopala Rao | 17. E.Sivaramudu |
| 9. J.S.Prasad | 18. G.Padma Reddy .. Applicants |

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Union of India Represented by:

1. The Chairman,
Telecom Commission,
New Delhi.
2. The Secretary to Government,
Ministry of Personnel and
Public Grievances Pension,
New Delhi.
3. The Chief General Manager,
Telecommunications,
Hyderabad.

.. Respondents

Counsel for the Applicants

.. Mr.K.S.R.Aanajeyulu

Counsel for the Respondents

.. Mr.N.V.Raghava Reddy

CORAM:

HON'BLE SHRI T.CHANDRASEKHARA REDDY : MEMBER (JUDL.)

T. Chandrasekhara Reddy

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Order of the Single Member Bench delivered
by Hon'ble Shri T.Chandrasekhara Reddy, Member (Judl.).

This is an application filed under Section 19 of the Administrative Tribunals Act to direct the respondents to allow the applicants to continue in RTTC Hyderabad for full tenure of 5 years with Training allowance at 30% and to refund the amount recovered so far as per the orders of the Department of Personnel and Training letter No.12017/2/86-Trg. dated 9.7.92 and Ministry of Communications New Delhi letter No.20-2/90-Trg. dated 5.8.92 and to pass such other order or orders as may deem fit and proper in the circumstances of the case.

The facts so far necessary to adjudicate this O.A. in brief are as follows:-

2. The applicants are 18 in number. The applicants are working as Lecturers/Instructors in Regional Telecom. Training Centre, Hyderabad. The applicants are Assistant Engineers belonging to TES Group 'B' in the pay scale of Rs.2000-60-2300-EB-75-3200-100-3500. The applicants have been selected and posted as Instructors for a tenure period of 5 years. As per the O.M. dated 31.3.87 issued by the respondents incorporating the terms and conditions with regard to the Instructors that were induced in the Regional Telecom Training Centre, Hyderabad it was provided that 30% of their basic pay shall be paid as Training allowance. At the time the applicants joined the training institute of the Regional Telecom Training Centre, Hyderabad they were governed by the O.M. dated 31.3.87 issued by the Department of Personnel and Training (Training Division)

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in the Ministry of Personnel Public Grievances and Pension. As a matter of fact, the department of Telecommunications had accepted the O.M. dated 31.3.87 issued by the Department of Personnel and Training (Training Division) in the Ministry of Personnel, Public Grievances and Pension and had implemented the said O.M. dated 31.3.87 as per their letter No.120-2/87-Trg. dated 11.1.89. All the applicants were duly selected and appointed in terms of the guidelines and vide Chairman, Telecom.Commission New Delhi letter No.3-27/91-STG.II dated 11.2.91. Subsequent to 11.2.91 letter, the applicants had joined in the Regional Training Centre, Hyderabad as Instructors. While so, the Chairman Telecommunications in his letter No.20-2/90-Trg. dated 5.8.92 while furnishing a copy of the DOP & Trg. letter No.12017/2/86-Trg. dated 9.7.92 issued orders stating that the rate of training allowance will be reduced uniformly from 30% to 15% of all Instructors/Lecturers while for others laid down shall remain unchanged. It was further stated in view of the orders dated 9.7.92 over payment of training allowance over and above 15% from that date was to be recovered. The amount was accordingly recovered and training allowance reduced to 15%. According to the applicant the reduction of training allowance to 15% and the recoveries of the amount that was paid at 30% of the basic pay was in gross violation of conditions and guidelines based on which selection and appointment was made. According to the applicants the action of the respondents altering the training allowance from 30% to 15% and ordering recovery above 15% of the amount

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paid towards training allowance was arbitrary and illegal. So, the present O.A. is filed for the relief as already indicated above.

3. Counter is filed by the respondents opposing this O.A. We have heard in detail Mr.K.S.R.Anjaneyulu, learned counsel for the applicant and Mr.N.V.Raghava Reddy, Standing Counsel for the Respondents.

4. This is not a case where the condition of service of the applicants had been altered to the prejudice of the applicants retrospectively. It is contended before withdrawing of the earlier letter of the Department of Telecommunications dated 11.1.89 wherein training allowance was to be provided to the Instructors/Lecturers at the rate of 30% of the basic pay, without hearing the applicants, is violative of the principles of natural justice. It seems to us that this view would not be justified. The deprivation of such benefit due to the applicants was not by way of penalty imposed on them. It was as a result of the policy decision right or wrong taken by the Government, not to extend the benefit of the letter dated 11.1.89 of the Department of Telecommunications and to reduce the training allowance from 30% to 15%. It is well settled principle that the conditions of service of the government employees may be altered without their consent (see) AIR 1967 SC 89 paras 6 & 7.

5. In a similar matter disposed of by the Division Bench in O.A.232/93 after relying on AIR 1967 SC 89 the Division Bench of this Tribunal has observed as follows:-

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"So, as seen, the principle in the said case is that the service conditions, including the emoluments are governed by statutory rules and legal position of government servants is more one of status than of contract. The rights and duties of govt. servants are imposed by the public law and not mere agreement by the parties. Therefore, the consent of the applicants is not necessary for altering such law. Nor the principles of natural justice need be observed. So, in view of the above said Supreme Court decision, it has got to be held that the respondents had the power to alter the service conditions of its employees subject, ofcourse to their (employees) other legitimate rights. So, the contention of the learned counsel that the govt. had no power to alter the rate of training allowance from 30% to 15% by issuing memo dated 9.7.92, can not atall be accepted."

6. So, in view of what Division Bench has held the contentions of the learned counsel that the Government had no power to alter the training allowance from 30% to 15% by issuing the impugned order dated 9.7.92 cannot be accepted. As seen, the applicants had also choice to opt for the revised conditions of ~~the~~ service, or, to seek reversion to their parent cadre before the implementation of the orders dated 9.7.92. So, as the applicants had choice to leave the ~~the~~ institution if they were dis-satisfied with the training allowance, it is rather difficult to say in view of the facts and circumstances of the case that the action of the respondents in reducing the training allowance of the applicants from 30% to 15% as per the impugned order dt. 9.7.92 is either arbitrary, illegal or not valid.

7. The learned counsel strongly contended that on the principle of Promisary Estoppel that the respondents are estopped from reducing the training allowance from 30% to 15% during the tenure period of 5 years of the applicants. No material is placed

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by the applicants before this Tribunal to show that the respondents had ~~been~~^{ever} promised that the training allowance will not be reduced during the said period of five years. So, it cannot be said in the circumstances of the case that there had been any promise on the part of the respondents to the applicants that during the tenure of 5 years period that the training allowance to be paid to the applicants will not be altered to their disadvantage. When once there is no promise on the part of the respondents, the principle of Promissary Estoppel absolutely has no application. The learned counsel for the applicants in support of his arguments that the respondents are estopped on the principle of promissary estoppel to reduce the training allowance from 30% to 15% relied on a decision reported in ATR 1987 (1) CAT 502 which deals with the "Promissary Estoppel". The observation therein has ~~absolutely~~^{absolutely} no relevance as already pointed out as the respondents have not promised that the training allowance from 30% to 15% would not be reduced to the disadvantage of the applicants.

8. As seen even for the notice period of 3 months the applicants are paid training allowance. It is from ~~8.10.92~~^{8.10.92} that the training allowance is restricted to 15% in view of the impugned orders dated 9.7.92. Any amount that has been paid in excess of 15% of training allowance beyond ~~8-10-92~~⁸⁻¹⁰⁻⁹² the applicants are liable to refund the same. So, the department has recovered the said amount paid over and above 15% of training allowance w.e.f. ~~8.10.92~~^{8.10.92} So, the action of the respondents in recovering

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the said amount paid over and above is certainly valid.

9. We see no merits in this O.A. and this O.A. is liable to be dismissed and is accordingly dismissed. The parties shall bear their own costs.

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T. Chandrasekhara Reddy
(T.CHANDRASEKHARA REDDY)
Member(Judl.)

Dated: 10 January, 1994

Deputy Registrar(Judl.)

Copy to:-

1. The Chairman, Telecom Commission, Union of India, New Delhi.
2. The Secretary to Government, Ministry of Personnel and Public Grievances Pension, New Delhi.
3. The Chief General Manager, Telecommunications, Hyderabad
4. One copy to Sri. K.S.R.Anjaneyulu, advocate, CAT, Hyd.
5. One copy to Sri. N.V.Raghava Reddy, Addl. CGSC, CAT, Hyd
6. One copy to Library, CAT, Hyd.
7. One copy to Deputy Registrar(Judl.), CAT, Hyd.
8. One copy spare.

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Rsm/-

O.A-965/92

TYPED BY

COMPARED BY

CHECKED BY ²⁵⁷

APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH : HYDERABAD

THE HON'BLE MR. JUSTICE V. NEELADRI RAO
VICE-CHAIRMAN

AND

THE HON'BLE MR. A. B. GORTHY : MEMBER(A)

AND

THE HON'BLE MR. T. CHANDRASEKHAR REDDY
MEMBER(J)

AND

THE HON'BLE MR. R. RANGARAJAN : MEMBER(A)

Dated: 10/1/1992

ORDER/JUDGMENT: _____

~~M.A./R.A./C.A.No.~~

O.A.No.

in

965/92

T.A.No.

(W.P.)

Admitted and Interim directions
issued.

Allowed.

Disposed of with directions.

Dismissed.

Dismissed as withdrawn.

Dismissed for default.

Rejected/Ordered.

No order as to costs

