

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

O.A. No.254/94

Dt. of Decision : 20-01-97.

1. P.Pratap Reddy
2. Y.Gattaiah
3. S.Sudhakar Rao
4. P.Sreenivas Rao

.. Applicants.

Vs

1. The Govt.of India, Rep.by its
Secretary, Dept. of Atomic Energy,
Personnel & Training,
Anusakthi Bhavan, Bombay.
2. The Secretary Finance, Dept.of
Atomic Energy, Anusaktha Bhavan,
Bombay.
3. The Chief Executive,
Heavy Water Board,
B.A.R.C.Sarabhai Vikram Bhavan,
Bombay.
4. The General Manager,
Dept. of Atomic Energy,H.W.P.Manuguru,
Khammam Dist.
5. The Admn. Officer, Dept. of
Atomic Energy, H.W.P.Manuguru,
Khammam Dist.

.. Respondents.

Counsel for the applicant, : Mrs. N.Shoba

Counsel for the respondents : Mr.V.Rajeswara Rao,ADDL.CGSC.

CORAM:-

THE HON'BLE SHRI R.RANGARAJAN : MEMBER (ADMN.)

THE HON'BLE SHRI B.S. JAI PARAMESHWAR : MEMBER (JUDL.)



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ORDER

ORAL ORDER (PER HON.SHRI B.S.JAI PARAMESHWAR : MEMBER (JUDL.))

None for the applicant. Heard Mr.V.Rajeswara Rao, learned counsel for the respondents.

2. The point for our consideration in this OA is whether training undergone by the applicants earlier to the regular absorption will count for granting of increment for the training period also in accordance with the OM No.16/16/89-Estt. (Pay-I) dated 22-10-90 (Annexure-1 to the OA) and the arrears from 1-1-90 as per the DOP&T's OM No.16/16/92-Estt.(Pay-I) dated 31-3-92 (Annexure-2)

3. The applicants herein were selected as Category II Trainees and were joined in Heavy Water Plant, Munuguru on 31-1-86. They were imparted training in plant operation/maintenance and safety of Heavy Water Plant on a monthly stipend of Rs.450/- for a period of one year. On successful completion of the training they were absorbed as Tradesman-B. The Government of India in its official Memorandum No.16/16/92-Estt(Pay-I) dated 22-10-90 (Annexure-I) had stated that the period for which a government servant was on training counts for the purpose of drawing increment. In continuation to the said O.M. again a clarification was issued vide O.M. dated 31-3-92 (Annexure-II) wherein it has been clarified that the training period from 1-1-86 to 30-9-90 also counts for increment as follows:-

"The period spent on training is treated as duty for the purpose of increment in cases where a person was been selected for regular appointment but before formally taking over charge of



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the post for which selection is required to undergo training."

The said benefit was not given to the applicants even though they made representation on 15-12-93. They submit that as per OM. dated 31-3-92 they are entitled ^{to} ~~for~~ the benefit of counting the training period on notional basis ^{from 1-8-86} and on actual basis from 1-10-90 and that they would suffer loss monetarily if the said benefit was not extended to them.

4. With these averments they have filed this OA praying this Tribunal to direct the respondents to treat the period spent by them during the training as duty for the purpose of the increment in accordance with OM dt. 31-3-92 effective from 1-1-86 on notional basis and from 1-10-90 on actual basis.

5. The respondents have filed their counter stating that during the training they were paid stipend of Rs.450/- that they were not appointed in any regular scale of pay, that only on successful completion of the training they were appointed as Tradesman-B/Tradesman-C depending upon their performance during the period of training, that from the date of absorption to the said grades they are eligible for pay in a scale of pay, that the applicants draw annual increment only from the date of their appointments in the regular posts, that their contention for counting the period for training for the purpose of increment in the regular scale is not provided in any rule or Govt. of India or DOP&T's instructions relied on by them, that advertisement No.3/ 85 clearly stipulated that trainee would be absorbed in one of the regular scale after successful completion of the training, that the said condition by necessary implication means that those



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who are not successful in the training were liable to be dispensed with, that the applicants were not automatically entitled for being absorbed in one of the regular grades as they were not appointed against the regular posts, that the OM dated 31-3-92 relied upon by the applicants can be attracted only in case of appointment to regular posts and the training is ^a pre-condition for such regular posts, that the said OM does not apply to the applicants that therefore the applicants are not entitled to the benefits. The respondents are also relied upon the FR 26.

6. The applicants were imparted training for being appointed as category-II trainees. Even the terms and conditions mentioned in the advertisement No.3/85 do not specifically indicate that the period of training undergone by the candidates would not be counted for grant of increment or seniority. It is also not stated that they were appointed against trainee reserved posts without the regular posts being available for absorption ^{on} and their completion.

7. In a similar OA filed in the Bangalore Bench of the Tribunal viz., OA.156/92 wherein a similar request for counting the period for purpose of granting increment in accordance with the DOP&T circular was prayed. That OA was disposed of by the Bangalore Bench allowing that OA vide order dated 26-3-93. Similar OAs were filed on the Bench of this Tribunal also. All those OAs were allowed as they were considered as covered case in view of the judgement in OA.156/92 on the file of the Bangalore Bench. One such OA was allowed by this Tribunal in OA.560/95 decided on 5-5-95. That ^{decision has been} ~~OA~~ was challenged in the Apex Court

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in Civil Appeal No.24853/96. The Apex Court by its order dated 20-12-96 ^{has} stayed the judgement of this Tribunal in OA.560/95 on the file of this Bench.

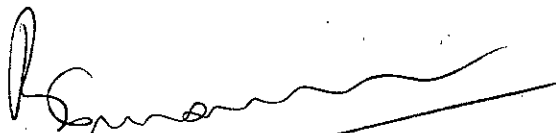
7. The prayer and the contentions raised in the present OA is similar to the prayer and contentions raised in the OA.560/95 of this Bench. As the judgement of this Tribunal in the OA has been stayed by the Apex Court as stated above, the following direction is given in this OA:-

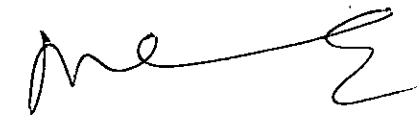
1) If the SLP in OA.560/95 in Civil Appeal No.24853/96 is allowed then this OA stands dismissed.

2) If the above referred CA is dismissed by the Apex Court then this OA stands allowed.

3) If any other order is given by the Apex Court in the Civil Appeal then that direction will hold good in this OA also.

8. The OA is ordered accordingly. No costs.



(B.S.JAI PARAMESHWAR)
MEMBER(JUDL.)
20.1.97


(R.RANGARAJAN)
MEMBER(ADMN.)

Dated : The 20th January 1997.

(Dictated in the Open Court)

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D.Y. Registrar

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Copy to:-

1. The Secretary, Dept. of Atomic Energy, Govt. of India, Personnel & Training, Anusakthi Bhavan, Bombay.
2. The Secretary, Finance, Dept. of Atomic Energy, Anusaktha Bhavan, Bombay.
3. The Chief Executive, Heavy Water Board, B.A.R.C. Sarabhai Vikram Bhavan, Bombay.
4. The General Manager, Dept. of Atomic Energy, H.W.P. Manuguru-Khammam Dist.
5. The Admn. Officer, Dept. of Atomic Energy, H.W.P. Manuguru, Khammam Dist.
6. One copy to Mrs. N. Sebha, adVocate, CAT, Hyd.
7. One copy to Sri. V. Rajeshwar Rao, Addl. GSC, CAT, Hyd.
8. One copy to Hon'ble Mr. B.S. Jai Parameshwar, J.M., CAT, Hyd
9. One spare copy.
10. One copy to Library.

Rsm/-

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THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH: HYDERABAD

THE HON'BLE SHRI R. RANGIRAJAN: M(A)

AND

THE HON'BLE SHRI B.S. JAI PARAMESHWAR:
M(J)

DATED:

26/1/97

Order/Judgment:

R.P/C.P/M.A.NO.

in

O.A.NO.

254/94

ADMITTED AND INTERIM DIRECTIONS ISSUED
ALLOWED

~~DISPOSED OF WITH DIRECTIONS~~

~~DISMISSED~~

~~DISMISSED AS WITHDRAWN~~

~~DISMISSED FOR DEFAULT~~

~~ORDERED/REJECTED~~

~~NO ORDER AS TO COSTS.~~

II COURT

YLKR

