

**CENTRAL ADMINISTRATIVE TRIBUNAL
JABALPUR BENCH**

OA No. 507/04

Jabalpur, this the 16th day of November, 2004

CORM

Hon'ble Mr. Madan Mohan, Judicial Member

Rohit Sharma
S/o Shri Sidhartha Kumar Sharma
Telecom District Manager, Betul
R/o F-type Quarter, Vikas Nagar, Betul
Tehsil and District. Betul.

Applicant

(By advocate Shri S.P.Sharma)

Versus

1. Union of India through
Secretary
Ministry of Communications & I.T.
Department of Telecommunications
Sanchar Bhavan, Ashoka Road,
New Delhi.
2. The Advisor (HRD)
Department of Telecom Services
New Delhi.
(By advocate Shri S.P.Singh)

Respondents

ORDER

By filing this OA, the applicant seeks a direction to the respondents to pay Rs.23,967/- as per Annexure A-8 dated 30.9.03 and quash Annexures A12 & A13 holding them as illegal and bad in law.

2. The brief facts of the case are the applicant is working as Telecom District Manager. This OA is an offshoot of orders dated 10.10.02 and 3.10.03 passed by the Tribunal in earlier OA Nos. 1123/2000 and 620/03



respectively with regard to payment of training cum teaching allowance to the applicant while he was working as Director, Transmission for the period 28.6.99 to 6.9.2000. The only issue for adjudication is about the quantum of payment of teaching cum training allowance payable to the applicant in view of the observations and directions so acted upon by respondents 1,3 & 4. The quantum of training allowance was at the rate of 30% of the basic pay, which was reduced to 15% arbitrarily but later respondent No.4 sanctioned Rs.5000/- by way of honorarium instead of paying at 15% to the applicant. The applicant represented against the reduction. During the pendency of OA No.620/03, the applicant filed his calculation sheet as on 30.9.03 and claimed payment of Rs.28,967/- against which a sum of Rs.5000/- had already been paid and claimed a total sum of Rs.23987/-. As per the directions of the Tribunal, the applicant submitted a fresh representations. The respondents disposed of the representations dated 10.10.03 and 12.12.03 mechanically without affording any opportunity of hearing to the applicant, holding that the applicant was not entitled to the amount claimed. Hence this OA is filed.

3. Heard learned counsel for both parties. It is argued on behalf of the applicant that the applicant is legally entitled for payment of teaching cum training allowance for the period from 28.6.99 to 6.9.2000. The learned counsel of the applicant has drawn my attention towards the order dated 10th Oct.2002 passed in OA No.1123/2000 in which it is mentioned that "the claim of the applicant is that Government of India vide notification dated 31.3.87 (Annexure A4) had ordered that when an employee of Govt. joins a training institute meant for training government officials, as a



faculty member other than a permanent member, he will be given training allowance at the rate of 30% (now reduced to 15%)". Hence the applicant should have been paid 15% training allowance for the aforesaid period by the respondents but they have misinterpreted the aforesaid order of the Tribunal and granted an honorarium while there is no such rule about payment of such honorarium. The claim of the applicant was not considered on the ground that it was barred by limitation. That was not rejected on merit while the present claim is legally valid and the applicant is entitled for it. The applicant had filed a second OANo.620/03 when the respondents did not comply with the order of the Tribunal passed in OA No.1123/2000 and again the respondents were directed to pass a speaking order within 2 months. But the respondents have passed the second order also mechanically which is against rules and not in compliance with the order of the Tribunal.

4. In reply, learned counsel for the respondents argued that the applicant has filed this OA third time while the respondents have complied with the directions of the Tribunal passed in earlier two OAs by compliance orders dated 2.12.02 and 24.12.03. The learned counsel has drawn my attention towards the order dated 10.10.02 passed in OA No.1123/2000 in which the Tribunal has held as follows:

"The applicant was not eligible for training allowance w.e.f. 28.6.99 when he was transferred from the post of Director carrying training allowance. The claim of the training allowance prior to his posting to a post carrying training allowance w.e.f. 27.10.98 is considered barred by limitation as no grievance against that order of initial posting on promotion was made on 31.12.97. So far as the second tenure w.e.f. 28.6.99 onwards is concerned, respondent No.



3 is directed to consider the case of the applicant for rewarding him suitably for grant of honorarium and in case the applicant has rendered additional services of imparting training in addition to his normal duties. The quantum of such honorarium is left to the discretion of the respondents considering the quantum of extra work done by the applicant in accordance with the existing rules on the subject."

5. The applicant has not filed any review application before the Tribunal for correction of this so called order about payment of honorarium and the applicant has not filed any writ petition before the Hon'ble High Court. The learned counsel further argued that the applicant has not filed any petition against the letter dated 31.12.97 (Annexure R1) in which it is clearly mentioned that the officer is not entitled for training allowance.

6. The respondents have complied with the orders passed in earlier OAs filed by the applicant and the orders passed by the respondents are perfectly legal and justified. The applicant has sought same relief by filing this OA which is not permissible under law.

7. After hearing the learned counsel for both parties and a careful perusal of the record, I find that the applicant has himself mentioned in para 4.7 of the OA that taking undue advantage of following by by misinterpreting the observations of the Tribunal as given in Annexure A1 as per their wish and desire, the quantum of such honorarium is left to the discretion of the respondent considering the quantum of extra work done by the applicant, in accordance with the existing rules on the subject. It shows that the applicant was well aware about the order of the Tribunal awarding the quantum of honorarium to the applicant in respect of



teaching and training allowance. Still he did not move any review application and he also did not file any writ petition against the aforesaid order and further the applicant did not raise any objection against Annexure R-1 in which it is clearly mentioned that the applicant is not entitled for training allowance. The respondents have complied with the orders of the Tribunal passed in OA No.1123/2000 and OA No.620/03 by issuing a letter dated 2.12.02 (Annexure A5) and letter dated 24.12.03 (Annexure A13). The respondents have mentioned in their return that there are only 5 posts in the cadre of Director which carry training allowance and the applicant is not posted in the said faculty for C.D.post nor for imparting training hence he is not entitled for the training allowance. The applicant has not filed a rejoinder against it.

8. After considering all the facts and circumstances of the case, I am of the considered opinion that the OA has no merit. Hence the OA is dismissed. No costs.

(Madan Mohan)
Judicial Member

पृष्ठान्कन सं ओ/न्या.....जबलपुर, दि.....

पलितिमि अने धित:-

aa.

- (1) सचिव, उच्च न्यायालय वार एसोसिएशन, जबलपुर
- (2) आवेदक श्री/श्रीमती/शु.....के काउंसल
- (3) प्रत्यक्षी श्री/श्रीमती/शु.....के काउंसल
- (4) कार्यपालक, न्यायालय, जबलपुर न्यायाधीश सूचना एवं आवश्यक कार्यवाही हेतु

उप रेजिस्ट्रार

Shri SP Sharma H.C.J.B.P.
Shri SP Singh H.C.J.B.P.

Issued
on 19.11.04