

(2012) 02 DEL CK 0249

In the Delhi High Court

Case No : Writ Petition (C) 994 of 2012 and CM 2201 of 2012 and Caveat 176 of 2012

General Manager Northern Railway and Another

APPELLANT

Vs

Jagdish Prasad Vijay

RESPONDENT

Date of Decision : 21-02-2012

Acts Referred:

Citation : (2012) 02 DEL CK 0249

Hon'ble Judges : V.K. Jain, J;Badar Durrez Ahmed, J

Bench : Division Bench

Advocate : R.V. Sinha with Mr R.N. Singh and Ms Sangita Rai, for the Appellant;

Final Decision : Dismissed

Judgement

Badar Durrez Ahmed, J

1. This writ petition is directed against the order dated 16.05.2011 passed in OA 2975/2010 by the Central Administrative Tribunal, Principal Bench, New Delhi, whereby the Tribunal partly allowed the said Original Application filed by the respondent by giving the following directions:-

(a) Applicant will be entitled to grant of Training Allowance at the rate of 15% of the basic pay with arrears for the period he functioned as Chief Instructor, ETTC, Ghaziabad.

(b) The further enhancement to 30% as per the VIth CPC would be examined by the respondents and decided by a speaking and reasoned order.

(c) We do not find it an appropriate case for imposition of costs.

(d) Our directions are to be complied within three months from the date of receipt of a copy of this order.

2. The respondent had claimed training allowance at the rate of 15% of basic pay in the first instance as against the training allowance of Rs. 400 per month,

which was being given to him by the petitioner. The respondent also claimed training allowance at the rate of 30% of the basic pay seeking support of the Sixth Pay Commission recommendations. From the directions referred to above, it is apparent that insofar as the respondent's claim with regard to training allowance at the rate of 15% of the basic pay with arrears for the period he functioned as a Chief Instructor, ETTC, Ghaziabad, is concerned, the same was allowed. However, the Tribunal directed the petitioner to examine the respondent's claim of training allowance at the rate of 30% and to decide the same by virtue of a speaking and reasoned order within a period of three months.

3. The learned counsel for the petitioner submitted that the direction given by the Tribunal to the extent that the training allowance be permitted to the respondent at the rate of 15% of the basic pay, is contrary to the rules. In support of his contention, the learned counsel placed reliance on a letter No. E (MPP) 2002/13/3 dated 24.01.2003 (Annexure P-2 Colly). In particular, he placed reliance on paragraph 5(g) of the said letter which, inter alia, stipulated that "Ad hoc appointees will not be allowed this training allowance till they are regularised." However, we feel that the learned counsel for the petitioner ought to have also considered paragraph 7 of the very same letter which reads as under:-

7. It is further clarified that until such time the screening is done and the Faculty Members not found fit are repatriated to their respective parent cadres such persons who have worked as Faculty Members on deputation may be allowed Training Allowance from the date of joining or 01.01.2003 whichever is later, till the date of reversion.

4. It is an admitted position that the respondent was a faculty member on deputation and that his screening had not been done for no fault on his part. That being the case, clearly, paragraph 7 of the said letter would apply. Consequently, the respondent would be entitled to training allowance from the date of his joining or 01.01.2003 whichever is later, till the date of his reversion.

5. In the light of the said paragraph 7 of the said letter, we find that there is no infirmity in the order passed by the Tribunal. No interference is warranted. The writ petition is dismissed. Despite a caveat having been filed by the respondent in this case, we have heard the matter in the absence of the caveator inasmuch as no order adverse to his interest has been passed by us. In fact, we have dismissed the writ petition.