



2025:DHC:1488-DB



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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

Date of decision: 06.03.2025

+ W.P.(C) 1656/2020 & CM APPL. 5785/2020

RAHUL SINGH

.....Petitioner

Through: Mr. Praveen Chandra, Adv.

versus

BORDER SECURITY FORCE & ANR.

.....Respondents

Through: Mr. Sushil Kumar Pandey, Adv.

CORAM:

HON'BLE MR. JUSTICE NAVIN CHAWLA

HON'BLE MS. JUSTICE SHALINDER KAUR

ORDER

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06.03.2025

NAVIN CHAWLA, J. (ORAL)

1. This petition has been filed by the petitioner, praying for the following reliefs:-

“a) Set aside/ quash the action taken by the Respondent authority in the month of January, 2020 whereby an order has been given effect to for recovering the training allowance granted to the Petitioner.

b) Further issue an appropriate Writ, Direction or order including a writ direction or order in the nature of mandamus commanding upon Respondent authorities to bring on record the various correspondence which has taken place between the officials with respect to the training allowance of the



Petitioner.

c) Further issue an appropriate Writ, Direction or order including a writ direction or order in the nature of Mandamus Commanding upon the officials of respondent No.01 to release the arrears of Training allowance eligible due to the Petitioner during his posting in Signal Training School Bangalore.

d) Appropriate order(s)/direction(s) upon Respondent No. 01 to pay to the Petitioner the cost of the present Writ Petition.”

2. As a brief background, the facts giving rise to the present petition are that the petitioner joined the Border Security Force (“BSF”) in the post of Assistant Commandant on 15.11.1997. By an Order dated 01.04.2015, the petitioner was posted to the Signal Training School, Bengaluru (“STS”), and by a subsequent Order dated 01.05.2015, he was given duties of an Instructor. On 21.10.2016, he was promoted to the rank of Second-In-Command (“2-I/C”), however, continued to be posted at the STS.

3. The respondents, by an Order dated 27.07.2017, released the petitioner from the post of an Instructor and instead, posted him at the Data Centre with the additional charge of supervising the functioning of ORs Mess I & II. Paragraph 2 of the said order specifically stated that on releasing the petitioner from the charge of OC (Training), the training allowance being drawn by the petitioner shall be discontinued with immediate effect. We quote from the Order as under:-

*“OFFICE OF THE INSPECTOR GENERAL,
STS BSF BANGALORE P.O. AFS
YELAHANKA BANGALORE 63 (AN IS/ISO
9001-2008 CERTIFIED INSTITUTION)*



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No. Estt/STS/GOs-Apptt/2017/9755-58

Dated: the 27th July, 2017

//ORDER//

1. Consequent upon third cadre review of Group 'A' executive cadre of BSF, the following officers are hereby ordered to perform the duties as mentioned against each without any extra financial benefits, with immediate effect.

a) 2IC Rahul Singh 2IC/Data/centre. In addition, the officer will also supervise the functioning of ORs Mess I & II

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2. Upon releasing from the charges of OC (Training) by Shri Rahul Singh 2IC, the training allowance presently drawing by the officer is hereby discontinued with immediate effect."

3. This is in supersession to this office order No. Estt/order-Offrs /STS /BSF /2017/6176-87 dated 29 May 2017.

4. Handing/taking over charges should be completed by 27 Jul 2017."

4. However, almost simultaneous to the above order, by an Order dated 29.09.2017, the petitioner was sanctioned training allowance @ 15% of the basic pay for being posted at the STS as a Faculty Member.

5. The petitioner addressed a communication dated 19.12.2017 to the Inspector General, STS stating that in view of the above order, he may now be assigned the duties as an Instructor to avoid any recovery at a later stage.



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6. By an Order dated 27.06.2018, the training allowance for the petitioner was restored by the Commandant (C-Estt), FHQ, BSF.

7. By an Audit Report dated 26.12.2018, it was highlighted that as the petitioner had not performed the duties as an Instructor from 28.07.2017 to March, 2018, he was not entitled to draw the training allowance. We quote from the audit report as under:-

**“Para No. 4.4 NON RECOVERY OF
TRAINING ALLOWANCES FOR
RS.2,65,827/-**

During the course of audit, it has been noticed that from 28/07/2017 to Mar 2018 Sh Raghul Singh, 2IC (IRLA NO. 19772585) has not performed the duties of Instructor or not taken any classes and drawn training allowances from 28/07/2017 to 31-03-2018 which comes to Rs. 1,12,844/-. Since no records pertaining to classes taken by the officer/performed the duties as instructor in STS BSF Bangalore has produced before the audit for verification, so the amount may be recovered from his pay and compliance report may be sent to audit.”

8. The petitioner immediately represented against the Recovery Order pursuant to the above audit report, however, by an Order dated 03.01.2020, his representation was rejected, *inter alia*, stating that post his promotion to the rank of 2-I/C, he had been authorised to perform the duties of CEW/Data Centre & Prov, which is considered as an administrative post and not entitled for drawing Instructor/Training Allowance. The Order records that an excess payment of Rs. 1,23,308/- has been made to the petitioner between the period from August, 2017 to March, 2018. Aggrieved thereby, the petitioner has filed the present petition.



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9. The learned counsel for the petitioner submits that the petitioner had been empanelled as an Instructor with the STS, and in terms of the Circular dated 30.01.2018, the empanelment is to remain effective for a period of 7 years, or till the completion of the tenure in a training institute/centre, for the purpose of grant of training allowance. He submits that even if an empanelled Instructor receives a promotion during the period of his empanelment, including from the post of Deputy Commandant (“DC”) to the post of 2-I/C, the Instructor would continue to draw the Training Allowance.

10. He submits that in the present case, as the petitioner had not been entrusted with the duties of an Instructor post his promotion, the petitioner had specifically requested the respondents for giving him such work. He submits that for non-assignment of the work, which is an administrative decision of the respondents themselves, the petitioner cannot be denied the benefit of the Training Allowance.

11. On the other hand, the learned counsel for the respondents reiterates that post the promotion of the petitioner to the rank of 2-I/C, the petitioner was removed from the performance of the duties as an Instructor, and was posted in an administrative capacity in the STS. Due to the subsequent Orders dated 29.09.2017 and 27.06.2018, the petitioner was still being released the Training Allowance, though he was not performing the duty as an Instructor. He submits that the said anomaly being pointed in the Audit Report, recovery was sought to be made from the petitioner and for the future, his entitlement to the Training Allowance was stopped.



12. Placing reliance on the Communication dated 03.08.2017 addressed by the petitioner to the Commandant, he submits that the petitioner, himself had stated that the necessary amendments in monthly pay slips be made and the payment of Training Allowance be stopped, so as to avoid any recovery at a later stage.

13. We have considered the submissions made by the learned counsels for the parties.

14. The Training Allowance and the posting for the same at a training institute, are stated to be governed by the Circular dated 30.01.2018, the relevant conditions, whereof, are reproduced herein under:-

“2. CRITERIA IN GENERAL

(a) The empanelment shall remain effective for 07 years. An instructor should remain empanelled till completion of his tenure in a Tr4g Instn/Centre for the purpose of grant of trg allowance, even if his empanelment has come to an end, in case he continues to be posted in same Training Instn/Centre as instructor.

(b) Empanelled instructors on promotion from junior grade to higher grade (UOs to ASI, ASI to SI, SI to Inspector, Inspector to AC, AC to DC and DC to 2IC) may continue to remain on the panel of instructors till completion of normal tenure. The empanelment of HCs will be effective for seven (07) years in case of promotion to the rank of ASI. Inspectors on their promotion to the rank of Asstt Comdt to remain on the panel of Instructors till completion of normal tenure. After the due tenure in the Training Institution/Centre, they should be posted to a duty Bn to complete their two years period of mandatory field service in a duty Bn.”



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15. A reading of the above would show that an Instructor empanelled for a Training Institute/Centre shall be entitled to grant of a Training Allowance. The empanelment is to remain effective for a period of seven years. Clause 2 (b) further states that if an empanelled Instructor is promoted, including from a DC to a 2-I/C, he may continue to remain on the panel of Instructors till the completion of normal tenure.

16. While the empanelment of a Head Constable on promotion to the rank of Assistant Sub-Inspector; and of an Inspector on promotion to the rank of Assistant Commandant, has been provided in Clause 2(b), there is no specific mention of the tenure on promotion for a Deputy Commandant to the rank of 2-I/C. Be that as it may, the Training Allowance is payable only to the Instructors.

17. In the present case, the petitioner was removed from the panel of Instructors by an Order dated 27.07.2017. The said Order specifically recorded that upon being released from the charge of OC (Training), the Training Allowance drawn by the petitioner shall be discontinued with immediate effect. It appears that because of an almost simultaneous Order dated 29.09.2017, which again granted the Training Allowance to the petitioner, the same was restored. The Training Allowance was thereafter again discontinued, however, restored by an Order dated 27.06.2018. The anomaly that the petitioner is drawing a Training Allowance, though he is not performing the duties of an Instructor got highlighted in the Audit Report. Because of the same, recovery was sought to be made of the



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Training Allowance that had been wrongly granted to the petitioner for the period in which he was actually not working as an Instructor.

18. The fact remains that the petitioner, once he is relieved from the duties of an Instructor and is assigned duties in the Administrative Wing, in terms of the Circular dated 30.01.2018, was not entitled to draw the Training Allowance. The petitioner also cannot insist that he should be assigned the duties of an Instructor, post his promotion. Posting of a personnel is an administrative decision of the respondents/employer and unless it is shown to have been made in contravention of some rule or out of malice or otherwise in an arbitrary manner, the Court cannot interfere with the posting orders. In the present case, even otherwise, there is no challenge laid by the petitioner to the order dated 27.07.2017, which relieved the petitioner from the position as an Instructor and posted him to the administrative wing.

19. We have noted hereinabove that the security of a tenure in the Circular dated 30.01.2018 is not granted for the personnel who are promoted from the post of DC to 2-I/C.

20. Therefore, post the petitioner being relieved from his posting as an Instructor at the STS, he was not entitled to the Training Allowance.

21. At the same time, it also remains beyond doubt that it is not for the fault of the petitioner that the petitioner was being paid by the respondents the Training Allowance for the intervening period between August, 2017 to March, 2018. In fact, the petitioner had



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himself pointed out this anomaly vide his letter dated 19.12.2017. The learned counsel for the petitioner has also submitted that before ordering the recovery from the petitioner, the petitioner was not issued any Show Cause Notice seeking his explanation against the same.

22. For the reasons recorded hereinabove, we are of the opinion that the recovery of the excess amount paid as the Training Allowance to the petitioner, cannot be permitted.

23. Accordingly, the present petition, along with pending application, stands disposed of by holding that though the petitioner was not entitled to the Training Allowance once he had been relieved from the duties of an Instructor at the STS, however, any excess amount as Training Allowance that may have been paid to the petitioner during the abovesaid period, shall not be recovered from the petitioner. Any amount that has been recovered from the petitioner pursuant to the Audit Report referred above, shall be refunded to the petitioner within a period of eight weeks from today.

24. The petition is disposed of in the above terms.

NAVIN CHAWLA, J

SHALINDER KAUR, J

MARCH 6, 2025/ss/kp/SJ

Click here to check corrigendum, if any