

COURT NO. 2
ARMED FORCES TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

OA 2148/2023 WITH MA 828/2025

Gp Capt Priya Darshan Tiwari (Retd) ... Applicant
Versus
Union of India & Ors. ... Respondents

For Applicant : Mr. Rajeev Kumar, proxy for
Mr. Tatshat Shukla
Mr Dhiraj Kumar and Mr. Brajesh
Kumar, Advocates

For Respondents : Mr. Neeraj , Sr. CGSC with
Mr Sanjay Pal, Advocate

CORAM :

HON'BLE MS. JUSTICE ANU MALHOTRA, MEMBER (J)
HON'BLE LT GEN C.P. MOHANTY, MEMBER (A)

ORDER

MA 828/2025

This is an application filed under Rule 25 of the Armed Forces Tribunal (Procedure) Rules, 2008, by the applicant seeking permission to bring on record certain additional documents vide the averments made in the application which are duly supported by an affidavit of

the applicant. The application is allowed and the additional documents filed are taken on record. MA stands disposed of.

OA 2148/2023

2. The Applicant, who is a retired Air Force officer has filed this Original Application under Section 14 of the Armed Forces Tribunal Act, 2007, praying for a direction to the Respondents to release the withheld training allowance of Rs. 7,45,843/- along with interest of 8% per annum, which was deducted from his leave encashment (LE) at the time of retirement.

3. Briefly stated, the facts of the case are that the Applicant was commissioned in the Indian Air Force in the branch of Aeronautical Engineering (Electronics) and retired on 15.07.2022. His PPO was issued on 16.12.2022. During the course of his service, he was posted to Air Force Academy (AFA) from 25.09.2017 to 18.04.2019 on instructional duty, on an authorized post as per Annexure A-3 (a copy of the relevant posting signal as has been annexed as Annexure A-3 to the

petition). The applicant submits that he served as Senior Instructor, Engineering Faculty. As averred through his OA, during the said tenure, the Applicant conducted theory and practical classes for officer trainees across branches. The training allowance for this instructional duty was paid to him during the period of his posting at AFA while he was in service.

4. However, post-retirement of the applicant, during Non Effective (NE) stage, the JCDA (AF) raised an objection to payment of training allowance to the applicant during his past service in AFA, seeking clarification from Air HQ citing lack of establishment strength as per GOI letter dated 30.06.2006 wherein the authorized strength of instructors in the AFA was stated to be 73 and accordingly denied the training allowance to the applicant and on this basis, withheld Rs. 7,45,843 from the Applicant's leave encashment. The Applicant contends that this recovery is arbitrary and contrary to the policy laid down by the Ministry of Defence letter PC-1(16)/2017/D(Pay/Services)/Pt.II dated

29.11.2019, which confirms eligibility of training allowance for faculty postings at designated training institutions such as AFA.

5. The Respondents have failed to provide a cogent justification for recovering an amount that was duly paid for a duty legitimately discharged by the applicant. No disciplinary or audit objections were communicated during the applicant's tenure at AFA. Moreover, unilateral post-facto recovery from retirement benefits is contrary to the principles laid down by the Hon'ble Supreme Court in State of Punjab vs Rafiq Masih, (2015) 4 SCC 334.

6. We consider it essential to advert to the contents of Ministry of Defence letter dated 29 November 2019 which is reproduced below:

***"No PC-1(16/2017/D(Pay/Services)/Pt.II
Government of India
Ministry of Defence***

New Delhi, the 29th Nov 2019

To

***The Chief of the Army Chief
The Chief of the Naval Staff
The Chief of the Air Staff***

Subject : Recommendations of the Seventh Central Pay Commission-Implementation of decision relating to the grant of Training Allowance

.....

Sir,

I am directed to refer to MoD letter No 1(26)/97/VI/D(Pay Services) dated 29.92.2000, Nos 1/54/2008/D(Pay/Services) and 1/55/2008/D(Pay/Services) both dated 04.11.2008 and Department of Personnel and Training OM No 13024/01/2016-Trg, Ref. dated 24.10.2017 and 12.11.2018 and to say that consequent upon the decision taken by the Government on the recommendations of the Seventh Central Pay Commission vide Ministry of Finance Resolution No. 11-1/2016-1C dated 06th July 2017, Instructional Allowance has been abolished as a separate allowance w.e.f. 01.07.2017 and Training Allowance shall now be admissible to the eligible personnel, at the following rates:

In National/Central Training Academics and Institutes for Group 'A' Officers mentioned under Appendix 'A'	24% of Basic Pay
In other Training Establishments mentioned under Appendix 'B'	12% of Basic Pay

2. Admissibility of this allowance will be regulated in the following manner:

(i) Training allowance will be admissible only to faculties who join the training academies/institutes/establishments for imparting training for a specified period of time and are then likely to go back.

(ii) Training allowance will be admissible to faculty members excluding those not covered by these guidelines as indicated in sub para (v) without any ceiling and will not form part of pay as defined in F.R. 9(21), but will count for purpose of leave salary.

(iii) Training allowance will continue to be drawn for the period the trainer is on study or tour related to training activities.

(iv) Such training allowance will also be admissible to personnel who goes on deputation as a faculty member to an autonomous training institutions aided by the Central Government which inter-alia trains Group 'A' Government officials.

(v) Training allowance will not be admissible to those permanent faculties/training academies/ institutes/ establishments who have been recruited directly by the training academies/institutes/establishments for imparting, training.

(vi) Deputation (Duty) Allowance will not be payable during the period in which the trainers are in receipt of Training allowance.

(vii) Standard cooling off period between tenures will apply.

3. The term 'Basic Pay' for the purpose of these orders refers to basic pay as defined in relevant Army/Air Force Pay Rules and Navy Pay Regulations.

4. Institutes either discontinued/ disbanded from the list of training establishments mentioned under MoD letter No. 1(26)/97/VI/D(Pay/Services) dated 29.02.2000 are mentioned under Appendix 'C'.

5. Officers/JCOS/Ors deployed on Administrative /logistic duties in these Training institutes will not be entitled for Training Allowance.

6. These orders shall be effective from 1st July, 2017.

7. This issues with the concurrence of Ministry of Defence (Finance) vide their ID No. 3(8)/2019/AG/PA/212-PA dated 26.11.2019.

Encl. As above

Yours faithfully,

Sd--
(Arun Kumar)

Under Secretary to the Govt. of India

Copy to: as per standard distribution list."

7. Further, certain additional letters which are relevant to case under consideration have been placed on record by the applicant through MA No 828/2025 which have been perused. Letter No Air HQ/25792/24/D Accts/P&A dated 17.03.2020 placed at Annexure A-5 is extracted as under :-

"AFNET 2112 5124

Air HO 25792 24 D Accts P&A

**Dte of Accounts
Army HQ (RKP)
New Delhi-66
17 Mar 20**

HO WAC IAF	}	-(CPSO/C Accts O)
HO SWAC IAF		
HO EAC IAF		
HO CAC IAF		
HO SAC IAF		
HO MC IAF		
HQ TO IAF		

**UNITS AUTHORISED FOR TRAINING ALLOWANCE UNDER
GENERIC HEADINGS**

1. Please refer :-

(a) Air HQ/25792/24/D Accts/P&A date 08 Mar 16

**(b) GoI, MoD letter No. 1/16/2017 D Pay Services) dated 28 Nov
19 circulated vide DACL/05/2020**

2 The list of Training Institutes (TIs) placed at Appx A and B to Gol letter ibid dated 28 Nov 2019 contain certain generic headings. The TIs eligible for Trg Allce under these generic headings are listed below :-

SI	Generic Heading	SI No on Gol letter dated 28 Nov 19	Units authorised for Trg Allce
(a)	Flying Training Establishments	Appx 'A'/1	(i) Air Force Academy (AFA)- Flying and Ground Faculties. (ii) BFTS (iii) FTW, AFS Hakimpet (iv) HTS, AFS Hakimpet (v) Jaguar Operational Flying Trg Unit, 224 Sqn (vi) OCU-A (vii) OCU-B
(b) to (g)	xxx	xxx	xxx

2. You are requested to issue necessary directions to units under your AoR to authorise Trg Allce as per the above list only, as far as generic headings in Gol letter dated 28 Nov 2019 are concerned.

Sd/-

(Jajendra Sinha)
Gp Capt
Gp Cast Accts (PA&R and Systems)

Copy to

AA to CAS
BCO VCAS
BCO, DCAS
BCO DG185
BCO, AOM

For information, please

OA 2148/2023

Gp Capt Priya Darshan Tiwari (Retd)

**SCO, AOA
BCO AOP**

AF IND

AFSSR

AFCAO - Appropriate mechanism may please be instituted to

ensure that PORS authorising Trg Allce are accepted at AFCAO only from the TIs authorised for Trg Allce. Any POR received from a unit not listed at Gol letter ibid dated 28 Nov 2019 or at Para 2 above may be rejected

**Gp Capt Trg (G) - Please refer letter no Air HQ/S
18950/1/4/Trg dated 02 Mar 20."**

8. Letter of Air HQ, RK Puram, New Delhi dated 05.02.2020 placed at Annexure A-6 which further clarified the context of Air HQ letter dated 28.11.2019 is reproduced as under :

"DACL/06/2020

AF Net: 2112 5128

**Air Headquarters
RK Puram
New Delhi-110 066
05 Feb 2020**

Air HQ/25792/24/D Accts/P&A

**HQ WAC, IAF
HQ EAC, IAF
HQ CAC, IAF
HQ SWAC, IAF
HQ SAC, IAF
HQ TC, IAF**

HQ MC, IAF
HQ IDS
HQ ANC
HQ SFC

TRAINING ALLOWANCE: IAF PERSONNEL

1. Govt of India, Ministry of Defence have authorised Training Allowance to Defence personnel vide their letter No. PC-1(16)/2017/D (Pay/Services)/Pt.II dated 28 Nov 2019. A copy is annexed.

2. Rate. Training Allowance will be authorised at following rates:-

(a)	In National/ Central Training Academies and Institutes for Group 'A' Officers mentioned under Appendix 'A' to Gol letter dated 28 Nov 19 placed as Annexure.	24% of Basic Pay
(b)	In other Training Establishments mentioned under Appendix 'B' to Gol letter dated 28 Nov 19 placed as Annexure.	12% of Basic Pay

3. Eligibility Conditions. Admissibility of Training Allowance will be regulated in the following manner :

(a) Training Allowance will be admissible only to faculties who join the training academies/ institutes/ establishments for imparting training for a specified period of time and are then likely to go back

(b) Training allowance will be admissible to faculty members excluding those not covered by those guidelines as indicated in sub para (e) without any ceiling and will not form part of pay as defined in F.F.L. 0(21), but will count for purpose of leave salary.

(c) Training allowance will continue to be drawn for the period the trainer is on study or tour related to training activities,

(d) Training allowance will also be admissible to personnel who goes on deputation as a faculty member to autonomous Training Institutions aided by the Central Government which inter alia trains Group 'A' Government officials.

(e) Training allowance will not be admissible to those permanent faculties of training academics/ institutes/ establishments who have been recruited directly by the training academies/institutes/establishments for imparting training.

(f) Deputation (Duty) Allowance will not be payable during the period in which the trainers are in receipt of Training allowance.

(g) Standard cooling off period between tenures will apply.

4. Officers/ Airmen deployed on administrative/logistic duties in these Training Institutes will not be entitled for Training Allowance. The posting orders of relevant personnel Issued by Dte of PO/AFRO will contain a specific notation 'Posted for Instructional duties'

5. The authorisation/ cessation of Training Allowance will be promulgated in POR at the rate applicable and forwarded to AFCAO by Training Institutes/ Establishments.

6. AFGAO will authorise/ cease Training Allowance in IRLAs as per occurrence promulgated in POR.

7. This allowance is taxable.

8. The term 'Basic Pay' for the purpose of these orders refers to basic pay as defined in relevant Air Force Pay Rules.

9. These orders shall be effective from 01 July 2017.

10. Provisions for Personnel Already Drawing Instructional Allowance. Instructional Allowance has been abolished by 7th CPC. Authorisation of Training Allowance would also mean implicit cessation of erstwhile Instructional Allowance,

wherever already drawn wef 01 Jul 17 or being drawn now. AFCAO is to undertake necessary adjustments while releasing arrears accruing on account of Training Allowance.

Sd/--

**(Satyendra K Sinha)
Gp Capt
Gp Capt Accts (PA&R and
Systems)**

Annexure: As stated

Copy

Internal

External

AA to CAS	PCDA (AF) Dehradun
BCO (VCAS Branch)	CDA(AF) (Misc Sec), RK Puram, New Delhi
BCO(DCAS Branch)	CDA(AF), New Delhi
BCO(AOP Branch)	
BCO(AOA Branch)	
BCO(AOM Branch)	
BCO(DG(I&S) Branch)	
AFCAO	
AFND	
AFSSR"	

9. A bare perusal of the posting order of the applicant placed at Annexure A-3 to the OA clearly indicates that it was specified therein that the applicant had been posted to AFA as Directing Staff (DS) duties, meaning thereby that the he is not debarred from grant of Training Allowance as clarified in letter of Air HQ dated 05.02.2020.

10. We do not find any merit nor justification of the Respondents to relate the payment of Training Allowance to the applicant with that of the sanctioned strength of the training establishment i.e. AFA. Therefore, the Applicant is entitled to payment of training allowance irrespective of the strength of instructors posted to AFA and there is no reason for the Respondents to withhold the amount of Rs. 7,45,843/- which was due to him. In view of the above, we hold that the recovery of Rs. 7,45,843/- is illegal and is unsustainable in law, and accordingly the applicant is entitled to restoration of the said amount with interest.

11. We therefore direct the Respondents to :-

(a) Release the withheld amount of Rs. 7,45,843/- to the Applicant forthwith.

(b) The amount shall carry interest at 8% per annum from the date of deduction till the date of actual payment.

(c) The above directions shall be complied with within one month of receipt of this order, failing

which the interest shall be enhanced to 10% per annum.

12. All pending miscellaneous applications are disposed of.

13. No order as to costs.

Pronounced in the open Court on 28 day of May, 2025.

(LT GEN C.P MOHANTY)
MEMBER (A)

(JUSTICE ANU MALHOTRA)
MEMBER (J)

akc/