

**COURT No.2
ARMED FORCES TRIBUNAL
PRINCIPAL BENCH: NEW DELHI**

OA 850/2025

Gp Capt Yuvraj Singh Chauhan Applicant
VERSUS
Union of India and Ors. Respondents

For Applicant : Mr. Prashant Negi, Advocate
For Respondents : Mr. Karan Singh Bhati, Sr. CGSC

CORAM

HON'BLE MS. JUSTICE ANU MALHOTRA, MEMBER (J)
HON'BLE REAR ADMIRAL DHIREN VIG, MEMBER (A)

ORDER

The applicant vide the present OA makes the following prayers:-

- “a) Call for records based on which the Respondents have issued the order dated 21.11.2024 and Corrigendum PPO dated 27.02.2025 vide which they are intending to recover Rs. 10,54,669/- which was paid to the Applicant as training allowance being posted as Instructor at Mechanical Training Institute, AFS, Tambaram, Chennai from 19.08.2019 to 26.03.2023 from the pensionary benefits of the Applicant and thereafter, quash all such orders.***
- b) Issue any other/direction as this Hon'ble Tribunal may deem fit in the facts of the case.”***

2. Along with the same is a prayer seeking grant of interim relief to the effect:-

“That keeping in view the facts and circumstances as mentioned above and also in terms of ratio laid down by Hon'ble Supreme Court in the case of State of Punjab and Others v. Rafiq Masih and Thomas Daniel vs State of Kerala, the Applicant is seeking interim stay on the order dated 21.11.2024 passed by the Respondents of recovering total amount of Rs. 10,54,669/- from pensionary benefits of the Applicant till the final disposal the Present OA as the Applicant is due for his retirement on 31.03.2025 and if interim stay is not granted by this Hon'ble Tribunal the Applicant will face irreparable loss. Moreover, the Prima Facie case is also made out against the illegal orders passed by the Respondents and balance of convenience also lies in favor of the Applicant and against the Respondents.”

3. No counter affidavit has been filed by the respondents despite ample opportunities granted vide proceedings dated 28.03.2025 onwards, and the facts on record as per the OA are thus not refuted.

4. The applicant was commissioned on 15.06.1991 in the Indian Air Force and was promoted upto the rank of Gp Capt.

He was posted as an Instructor at the Mechanical Training Institute, Tambaram on 19.08.2019. The personal occurrence report dated 15.03.2020 with respect of the applicant endorsing the posting of the applicant as Instructor at Mechanical Training Institute, AFS, Tambaram, Chennai was also published whilst also authorizing grant of training allowance to the applicant.

5. Vide letter no. PC-1(16)/2017/ D(Pay/Services)/Pt.II, Government of India, Ministry of Defence dated 28.11.2019 issued by the Under Secretary to the Govt. of India to the Chiefs of the Army Staff, Naval Staff and Air Staff, it was informed as under:-

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

New Delhi, the 28th Nov. 2019

To

The Chief of the Army Staff
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 29.02.2000, 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-IC 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 Academies 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 of 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

**(Arun Kumar)
Under Secretary to the Govt. of India**

Copy to: as per standard distribution list."

6. In terms of the said letter no. PC-1(16)/2017/
D(Pay/Services)/Pt.II, Government of India, Ministry of

Defence dated 28.11.2019, training allowance was made admissible to the eligible personnel at the rate of 24% of the Basic Pay to Group 'A' Officers mentioned under Appendix 'A' to the said letter dated 28.11.2019 and posted at National/Central Training Academies and Institutes. The applicant was paid a sum of Rs. 10,54,669/- as the training allowance which the respondents sought to recover in relation to the same having been paid for the period 19.08.2019 to 26.03.2023 as Instructor at MTI, Tambaram for the period 19.08.2019 to 26.03.2023 as per impugned document letter no. TAM/2355/01/OPS/Accts/II dated 17.12.2024 to which is attached the letter no. TAM/2355/01/OPS/Accts/II dated 17.12.2024.

7. Vide the OA filed under consideration, the applicant has submitted that the said recovery of the training allowance for the period from 19.08.2019 to 26.03.2023 on which the applicant has paid admissible taxes cannot be recovered by the respondents now in terms of verdict of the Hon'ble Supreme Court in ***State of Punjab and others vs. Rafiq***

Masih(White Washer) and others. (2015) 4 SCC 334 and **Thomas Daniel vs. State of Kerala & Ors.** in Civil Appeal 7115/2010 to submit to the effect that it has been categorically laid down by the Hon'ble Supreme Court in **State of Punjab and others vs. Rafiq Masih(White Washer)** (Supra) vide Para-18 to the effect:-

"18. It is not possible to postulate all situations of hardship, which would govern employees on the issue of recovery, where payments have mistakenly been made by the employer, in excess of their entitlement. Be that as it may, based on the decisions referred to herein above, we may, as a ready reference, summarise the following few situations, wherein recoveries by the employers, would be impermissible in law:

- (i) Recovery from the employees belonging to Class III and Class IV service (or Group C and Group D service).**
- (ii) Recovery from the retired employees, or the employees who are due to retire within one year, of the order of recovery.**
- (iii) Recovery from employees, when the excess payment has been made for a period in excess of five years, before the order of recovery is issued.**
- (iv) Recovery in cases where an employee has wrongfully been required to discharge duties of a higher post, and has been paid accordingly, even though he should have rightfully been required to work against an inferior post.**
- (v) In any other case, where the court arrives at the conclusion, that recovery if made from the employee, would be iniquitous or harsh or arbitrary to such an extent, as would far outweigh the equitable balance of the employer's right to recover."**

8. It is further submitted on behalf of the applicant that the same has also been reiterated by the Hon'ble Supreme Court in **Thomas Daniel** (Supra) that where there has been no misrepresentation or fraud played by the employee and that even if there is an excess payment made by the employer by applying a wrong principle for calculating the pay/allowance or on the basis of a particular interpretation of rule/order, which is subsequently found to be erroneous, such excess payment of emoluments or allowances are not recovered.

9. Vide the order dated 28.03.2025 as an interim measure, till further directions the recovery of the amount of Rs. 10,54,669/- from the applicant whilst he was posted at Instructor at Mechanical Training Institute, AFS as Tambaram, Chennai from 19.08.2019 to 26.03.2023 from his pensionary benefits in terms of the impugned order placed at Annexure A-1(Colly) dated 17.12.2024 with its accompanying letter no. CAO/10203/ 21374/OPS dated 21.11.2024 was stayed.

10. On 20.11.2025, the respondents submitted a document no. SPARSH/AF/11196/Court Cases(21374G) dated 28.05.2025 to indicate that the amount of Rs.10,54,669/- which was recovered from the applicant in terms of order dated 28.03.2025 of this Tribunal has since been refunded to the applicant and a Corrigendum PPO bearing no. 501202500069 with Corrigendum number 3 dated 09.05.2025 was submitted showing the demands from the applicant as being **“0”(zero)**.

11. The applicant has since retired on 31.03.2025. As per the copy of the personal occurrence report placed at Annexure A-3 to the OA, the applicant was authorized to draw training allowance as per the 7th CPC in view of his being posted for instructional duties in the Training Type Training Schools(TETTRAS) as per the said scanned copy of the COMPUTERIZED PERSONNEL OCCURRENCE REPORT:IAF OFFICERS:P-STAFF MAIN POR *inter alia* qua the applicant which as scanned is reproduced as under:-

ANNEXURE - A-3

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COMPUTERISED PERSONNEL OCCURRENCE REPORT : IAF OFFICERS : P-STAFF MAIN FOR Annexure - 2

ADDAI	SECTION I	11	FOR NO	18/03/2020
ICIA	SECTION II	8	FOR DATE	18/03/2020
HC TC	SECTION III	0	TOTAL OCC	36
REGISTRATION DATE	SECTION IV	11	PAGE NO	1 of 2
SERIAL NUMBER				

RANK INITIALS & NAME	PERSONAL NUMBER	BRANCH COMM TYPE	NATURE OF OCCURRENCE	DATE OF EFFECT AND AUTHORITY
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SECTION 1

OFFICERS AUTHORIZED (OTHER THAN LOCAL)

ARE THE IAF OFFICER(S) OFFICER(S) IS/ARE AUTHORIZED TO DRAW HOUSE RENT ALLOWANCE @ Rs. APPLICABLE AS PER THE DETAILS SHOWN AGAINST THEIR NAMES.

WITH EFFECT FROM	CLASS OF CITY	NAC RECEIVED	NAC LETTER DATED	NAC VALID FROM			
		NO					
		NAC VALID TO	REASON	AUTHORITY			
G CAPT(7S)	MVM REDDY	22097-R AE(M) PC MALE	01 Jan 2020	X	TAM/9058/1/3/ TRG	25 Feb 2020	01 Jan 2020
			30 Jun 2020	SUBSEQUENT AUTHORITY	AS SHOWN & ACCSTN		

certified that the individuals have submitted NAC and requisite certificates in terms of DA CL 09/2000.

Govt of India, MoD letter No. 1(5)/97/D(Pay/Services) dated 21 Nov 97 and 10(55)/98/D(Q&C) dated 29 Sep 99 and DA CL 2000 & GOI(MOD)NO-10(55)/98/D(Q&C) Dtd 18 Nov 2008, DA CL 11/2009 DATED 17 FEB 2009

ARE THE IAF OFFICERS IS/ARE AUTHORIZED TO DRAW TRAINING ALLOWANCE VII CPC AS PER DETAILS MENTIONED AGAINST THEIR NAMES.

DATE FROM	CATEGORY	NAME OF INSTITUTE	RATE (% OF BP)	REASON
		AUTHORITY		
19 Aug 2019	APPENDIX 'B'	TRAINING TYPE TRAINING SCHOOLS (TETTRAS)	12	POSTED IN FOR INSTRUCTIONAL DUTIES
		DA CL 06/20 AND CO UNIT		
01 Jul 2017	APPENDIX 'B'	TRAINING TYPE TRAINING SCHOOLS (TETTRAS)	12	POSTED IN FOR INSTRUCTIONAL DUTIES
		DA CL 06/20 AND CO UNIT		
04 Jul 2018	APPENDIX 'D'	TRAINING TYPE TRAINING SCHOOLS (TETTRAS)	12	POSTED IN FOR INSTRUCTIONAL DUTIES
		DA CL 06/20 AND CO UNIT		

Printed By : SGT. ASHISH KUMAR (905830) dated on 18/03/2020 10:18:44 AM

RESTRICTED

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12. In view thereof as to similar effect in OA 2148/2023 in the case of **Gp Capt Priyadarshan Tiwari(Retd) vs. UOI & Ors.** disposed of vide order dated 28.05.2025, it was observed vide Para-5 thereof by the AFT(PB), New Delhi to the effect:-

“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.”,

in as much as the applicant was posted in the Training Type Training Schools(TETTRAS) as indicated vide the COMPUTERIZED PERSONNEL OCCURRENCE REPORT dated 18.03.2020 from 19.08.2019 onwards till the period 26.03.2023, the applicant is held entitled to amount of Rs. 10,54,669/- as training allowance paid to the applicant by the respondents with no fraud or misrepresentation by the applicant, coupled with the factum that the applicant was discharging duties of an instructor at the institute where he was posted for which the amount sought to be recovered vide the impugned document dated 17.12.2024 with its

accompanying letter dated 21.11.2024 from the applicant cannot be recovered and in as much as the same has already been refunded back to the applicant with the PPO no. showing a "0"(zero) recovery, no further action is called for.

13. However, the interim order dated 28.03.2025 restraining the respondents from making any recovery of the amount of Rs. 10,54,669/- whilst he was posted as an Instructor at Mechanical Training Institute, AFS as Tambaram, Chennai falling in the category of Training Type Training Schools(TETTRAS) from 19.08.2019 to 26.03.2023 from his pensionary benefits in terms of the impugned order placed at Annexure A-1(Colly) dated 17.12.2024 with its accompanying letter no. CAO/10203/ 21374/OPS dated 21.11.2024 is made absolute.

14. The OA 850/2025 is thus disposed of accordingly.

Pronounced in the open Court on the 3^o day of March, 2026.


[REAR ADMIRAL DHIREN VIG]
MEMBER (A)


[JUSTICE ANU MALHOTRA]
MEMBER (J)

/TS/