

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

O.A. NO. 65/2002

NEW DELHI THIS THE 10TH DAY OF JULY, 2002

HON'BLE SHRI GOVINDAN S.TAMPI, MEMBER (A)

Mrs. Anju Sethi,
W/o Sh. V K Sethi,
House No.7,
Rural Health Training Centre Campus,
Najafgarh,
New Delhi

and employed as :-

Warden in Rural Health Training Centre
Najafgarh.

(By Shri B B Raval, Advocate) ...Applicant

V E R S U S

1. Union of India
through The Secretary,
Ministry of Health and Family Welfare,
Government of India,
Nirman Bhawan,
New Delhi.
2. The Director General of Health Services,
Ministry of Health and Family Welfare,
Government of India, Nirman Bhawan, New Delhi
3. The Officer-in-Charge,
Rural Health Training Centre
Najafgarh.

...Respondents

(By Shri Inderjeet Singh proxy for Shri Rajinder
Nischal, Advocate)

O R D E R (ORAL)

By Hon'ble Sh. Govindan S.Tampi, Member (A)

Applicant in this case seeks grant of House
Rent Allowance as well as well as transport allowance
alongwith the refund of licence fee and water charges
recovered from her salary.

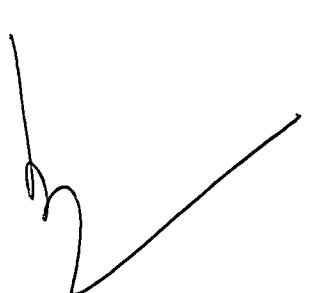
2. Shri B B Raval, learned counsel appeared
for the applicant while Shri Inderjeet Singh learned
counsel represented the respondents.

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3. The applicant who joined as Warden at Rural Health Training Centre, Nazafgarh New Delhi on 18.12.89 was allotted an in-campus quarter during January 1999. On 3.8.1993, buildings including the one being occupied by the applicant was declared as unsafe for habitation. Though the applicant indicated her keenness to vacate the same, she was persuaded not to do so by the respondents. She has also sought an alternative accommodation during July 1994. On 29.7.94 she was offered two of the pre-fabricated quarters for residence. Following the collapse of one of the rooms, she requested for a change over of the accommodation, whereafter she shifted to a private accommodation in Paschim Vihar. In fact the two pre fabricated structures offered to her were also be declared as dangerous for occupation. Subsequently on 16.4.1994 she informed the respondents about the change of her accommodation. On 18.8.94 she was allotted accommodation in the ground floor of the two storey hostel with directions to perform her duties from that premises. In her detailed representation on 26.8.94 she explained the circumstances and intimated that she was staying in private accommodation but was performing her duties satisfactorily. Subsequently in November 1996 she was asked to moved to the accommodation in the campus as in the capacity of Warden, her presence in the campus was necessary, though the CPWD authorities had held that the premises allotted to her could not be occupied. The respondents also indicated that the quarters earlier allotted was safe, though in fact it was not so. During this period as she was staying

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outside she requested for grant of HRA but the same did not receive any favourable attention. According to the applicant an amount of Rs. 60,354/- was due to her. This request on 5.7.99 was repelled by the order 13.9.2001. Hence this O.A.

4. The applicant, though was entitled for drawing of HRA between 25.7.94 when she vacated the quarter and 16.9.99 when she occupied the newly allotted quarter was not granted by the respondents. Besides they had deducted licence fee and water charges from the applicant for the period for the premises which were not in her occupation.

5. The grounds raised in the applications are

- i) the applicant was entitled for an in-campus accommodation being a Warden;
- ii) grant of HRA was a vested right;
- iii) she had to vacate the government accommodation only as the same had been declared as dangerous;
- iv) the respondents had failed to provide appropriate residential accommodation;
- v) she was also entitled for transport allowance as she was staying away and her presence was needed in Hostel as the in-campus Warden;

The applicant was incorrectly denied the HRA and Transport allowance and the same deserved to be granted to her.

6. In the reply filed on behalf of respondents it is pointed out that the applicant who was allotted a residential accommodation during January 1990, did not vacate the accommodation till 23.7.94, when one of the rooms collapsed, though she

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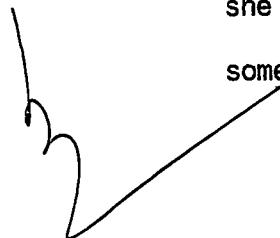
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had been alerted about the unsafe condition of the accommodation even one year earlier. Her request for alternate accommodation was considered and she was allotted the entire ground floor of the double storey Hostel on 18.8.94. She had also been informed that the residential quarters have been repaired by the CPWD. The applicant however did not act according to instructions of the respondents and has come before Tribunal. Being the in-campus Warden she was expected to stay in the Hostel and her post has been declared as residential job. While it is true that for a shortwhile in between the building has been declared as unsafe, it was got repaired soon and the applicant was therefore expected to reside there. Since she had not done so her claim for HRA and transport allowance had been correctly rejected.

7. During the oral submissions both Shri Raval and Sh. Inderjeet Singh reiterated their respective pleadings.

8. I have carefully considered the matter. The applicant who was appointed as Warden in the Rural Health Training Centre, was thus holding a residential post and therefore was expected to stay in the campus as the condition of service. However, the flat allotted to her in January 1990 was declared during August 1993 as dangerous and unfit for occupation. She could not have been expected to stay in the premises. The alternate accommodation allotted to her also fell in the same category and therefore, she was forced to occupy the private accommodation for some time. Though she was thus staying in the private

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accommodation. She was attending her job and it is not the case of the respondents that she had failed to perform her duties as Warden satisfactorily. Therefore it is imperative that for the period she was forced to stay outside and perform her duties she is correctly entitled for HRA and transport allowance as admissible to a Govt servant of her rank and pay. The same could not have been denied. Similarly recovery of licence fee and water charges for the govt. accommodation which she was not occupying also cannot be sustained. The respondents as model employers were expected to act in a proper and just manner, which they had failed to do.

9. In the above view of the matter the OA succeeds and is accordingly allowed. The respondents are directed to grant the applicant HRA and Transport allowance as admissible to her during the period 25.7.94 to 16.9.99 she was occupying a private accommodation as the accommodation allotted to her was unsafe and dangerous for habitation. They shall also refund to her the amount of licence fee and water charges recovered from her pay during the said period. This exercise shall be completed within three months on receipt of this order. No costs.

10. The operative portion of this order was pronounced in the open court on the conclusion of oral submissions.

(Govindan S. Tampi)
Member (A)

Patwal/