

CENTRAL ADMINISTRATIVE TRIBUNAL

GUWAHATI BENCH

Original Application No. 040/00422/2019

Date of Order: This, the 16th day of December 2019

THE HON'BLE SMT. MANJULA DAS, MEMBER (J)

THE HON'BLE MR. NEKKHOMANG NEHSIAL, MEMBER (A)



1. Shri Babul Sarkar
Upper Division Clerk
Office of the Superintending Engineer
Central Water Commission
Hydrological Observation Circle
CWC Complex behind Adabari Bus Stand
Post Office – Gauhati University
Guwahati, Pin – 781014.
2. Shri Babul Ali
Multi Tasking Staff
Office of the Superintending Engineer
Central Water Commission
Hydrological Observation Circle
CWC Complex behind Adabari Bus Stand
Post Office – Gauhati University
Guwahati, Pin – 781014.
3. Shri Pranesh Chandra Sarkar
Work Sarkar, Grade-II
Office of the Executive Engineer
Central Water Commission
Middle Brahmaputra Division
CWC Complex behind Adabari Bus Stand
Post Office – Gauhati University
Guwahati, Pin – 781014.
4. Smti Mandira Das
Multi Tasking Staff
Office of the Directorate Monitoring
& Appraisal, Central Water Commission
CWC Complex behind Adabari Bus Stand
P.O. – Gauhati University, Guwahati, Pin – 781014.

5. Shri Madan Chandra Nath
Multi Tasking Staff
Office of the Superintending Engineer
Central Water Commission
Hydrological Observation Circle
Government of India, CWC Complex
Behind Adabari Bus Stand
P.O. – Gauhati University, Guwahati, Pin – 781014.

...Applicants

By Advocates: Sri Adil Ahmed, Smt. Doli Goswami
And Ms. A. Theyo

-Versus-



1. The Union of India
Represented by the Secretary
To the Government of India
Ministry of Water Resources
Shram Shakti Bhawan, Rafi Marg
New Delhi, Pin – 110001.
2. The Director
River Data Compilation
Directorate, Central Water Commission
West Block-1, Second Floor, Wing-4
R.K. Puram, New Delhi – 110066.
3. The Superintending Engineer
Hydrological Observation Circle
Central Water Commission
Government of India, CWC Complex
Behind Adabari Bus Stand
P.O. – Gauhati University, Pin – 781014.
4. The Executive Engineer
Central Water Commission
Middle Brahmaputra Division
Government of India, CWC Complex
Behind Adabari Bus Stand
P.O. – Gauhati University, Pin – 781014.

...Respondents.

O R D E R (O R A L)

MANJULA DAS, MEMBER (J)

On being mentioned by Sri Adil Ahmed, learned counsel for the applicants, this O.A. is taken up today.

2. As the grievances and reliefs sought for by the present five applicants in this application are common and under the same respondents, their prayer for grant permission to move this petition jointly under Section 4(5)(a) of the Central Administrative Tribunal (Procedure) Rules, 1987 is hereby allowed.



3. To begin with, Sri Adil Ahmed, learned counsel for the applicants prays for necessary correction in the relief portion. He is hereby permitted for making the necessary correction in the court.

4. This O.A. has been preferred by the applicants under Section 19 of the Administrative Tribunals Act, 1985 seeking the following reliefs:-

- "8.(i) To set aside and quash the impugned letter bearing File No./Civil No. 5/8/Allot-Resid./2018/1574-75 dated 20.07.2019 issued by Executive Engineer, Middle Brahmaputra Division, C.W.C., Guwahati, impugned order dated 20.11.2017 as well as consequential Notice dated 03.05.2018.



- 8.(ii) To declare that the applicants are entitled to draw House Rent Allowance as per Rule-7 of the General Rules and orders of the Government of India, on House Rent Allowance and also as per the Ministry of Finance Department of Expenditure vide Office Memorandum bearing File No. 2/5/2017-E IIB dated 05.03.2019 and Ministry of Housing & Urban Affairs Directorate of Estates, Government of India vide Office Memorandum bearing File No. 12034/1/2019-Pol.III dated 08.04.2019.
- 8.(iii) To direct the Respondents to continue the benefit of House Rent Allowance to the individual applicant as per their entitlement with effect from the date of withholding the House Rent Allowance to the Applicant from their respective monthly salary.
- 8.(iv) Costs of the application.
- 8.(v) Any other relief (s) which the applicants are entitled to as may deem fit and proper."

5. All the five applicants are working in different categories under the office of Superintending Engineer/Executive Engineer/Directorate Monitoring Appraisal, Central Water Commission (CWC), Adabari, Guwahati. They are residing in different places of Guwahati either in rented houses or in their own houses since inception and before shifting of the different offices of Central Water Commission which were situated earlier in different locations at Guwahati in the rented houses/building premises. In the CWC Complex, Adabari, certain residential quarters namely type-I, type-II, type-III and type-IV quarters have been

constructed for residential purpose of the CWC employees. However, the present applicants arranged their own accommodation either on rented house or own house even before and after shifting of the office at CWC Complex at Adabari, Guwahati.



6. The applicants are aggrieved by the impugned orders and circulars whereby it has been decided to stop payment of HRA to all the employees including the applicants working in CWC Adabari, Guwahati due to non-exercise of their option/taken possession of the available quarters. According to the applicants, applicant Nos. 2, 3 & 5 did not make any application pursuant to the Circular dated 20.07.2017 and Notice dated 03.05.2018 on the bonafide ground that they have already arranged their accommodation long back as per their convenience, keeping in mind the educational facilities of their children on hiring accommodation and some of the applicants either purchased flats or constructed their houses in and around Guwahati. However, in cases of some of the applicants, the payment of HRA has already been stopped.

7. According to the applicants, denial of HRA due and admissible to the applicants is against the Rule 7(i) of the General Rules and orders of the Govt. of India which stipulates as under:-

"7(i) A Government servant living in a house owned by him his wife, children, father or mother shall also be eligible for HRA under these orders."



8. Applicants contended that in view of the aforesaid rules, the applicants are legally entitled to payment of HRA as per their entitlement. In the O.A., applicants stated that similar issue has already been decided by this Tribunal in O.A. 365/2015 in favour of the applicant therein vide order dated 15.06.2016 and vide common order dated 21.11.2019 in O.A. No. 10 of 2018 & 186/2018. According to the applicants, said decisions are applicable in their cases also.

9. Applicants further contended that compulsory occupation of Govt. Quarter is not a condition of service, therefore, respondents have no jurisdiction to impose compulsory occupation of residential quarter or stoppage of payment of HRA in violation of Rule 7(i) of the aforesaid rules. As such, Circular dated 20.07.2017,

letter dated 20.11.2017 and consequential Notice dated 03.05.2018 are liable to be quashed and set aside.

10. Sri Adil Ahmed, learned counsel appearing on behalf of the applicants during the course of the arguments has placed two OMs dated 05.03.2019 issued by the Ministry of Finance, Department of Expenditure and dated 08.04.2019 issued by the Ministry of Urban Affairs, Directorate of Estates. Relevant portion of OM dated 05.03.2019 is extracted below:-



".....The President, in consultation with Ministry of Housing and Urban Affairs and the Staff Side of the National Council (J.C.M.), is pleased to decide that the conditions of applying for Government Accommodation Certificate by Central Government employees to become eligible for House Rent Allowance are dispensed with all places, in respect of General Pool Residential Accommodation (GPRA) controlled by Directorate of Estates."

The OM dated 08.04.2019 was issued by Ministry of Urban Affairs on similar lines. According to the learned counsel for the applicants, in view of the aforesaid two OMs, the contention of the respondents that the applicants are not entitled to HRA is not justified.



11. Sri Ahmed submitted that respondents were not able to provide government accommodation from their dates of initial appointment and accordingly, they had no option but arranged their accommodation and they are settled in their accommodation keeping mind the convenience of education of wards, medical facility of parents, employment of spouse etc. The quarters were offered only from 01.01.2018 and since then HRA was also proposed to be stopped. According to Shri Ahmed, the respondents themselves have admitted the unhygienic and unsafe condition of the approach road to the CWC Complex.

12. We have heard the learned counsel for the applicants, perused the pleadings and materials placed on record including the decisions relied upon.

13. It is noted that this Tribunal has passed order in the case of similarly situated employees vide common judgment and order dated 21.11.2019 in O.A. No. 040/00010/2018 & 040/00186/2018 and observed and directed as follows:-

“12. Admittedly vide O.M. dated 05.03.2019, the condition of applying for government accommodation and furnishing of No

Accommodation Certificate to become eligible for payment of HRA have been dispensed with for all purposes in respect of General Pool Residential Accommodation (GPRA) controlled by Directorate of Estates. To that effect, learned counsel for the respondents also admitted that applicants are entitled to HRA w.e.f. the date those two OMs were made operational i.e. 05.03.2019. Thus, there is no dispute as regards payment of HRA to the applicants from 05.03.2019"

13. As regards payment of HRA prior to 05.03.2019, i.e. 01.01.2008 or 01.05.2008, as the case may be, matter is remanded to the authority for taking a final decision in the matter. Accordingly, applicants are directed to make comprehensive representation ventilating their grievances within a period of one month from the date of receipt of this order. On receipt of the same, the respondents are directed to scrutinize the same as per rules and pass appropriate orders after affording them an opportunity of being heard within a period of two months thereafter. Till such time, the interim orders passed in all the cases shall continue to operate."



14. In the present case also, as regards payment of HRA prior to 05.03.2019 i.e. w.e.f. 01.01.2018, as the case may be, we deem fit and proper to remand the matter to the authority for taking a final decision in the matter. Accordingly, applicants are hereby directed to make comprehensive representation ventilating their grievances within a period of one month from the date of receipt of this order. On receipt of the same, the respondents are directed to scrutinize the same as per

rules and pass appropriate orders after affording them an opportunity of being heard within a period of two months thereafter. Till such time, impugned order No. 5/8/Allot-Resid./2018/1574-75 dated 20.07.2019, impugned order No. 8(6) A/2012-BBB/3537-39 dated 20.11.2017 as well as impugned Notice No. 5/4/CPWD-HQ/2015-MBD/2238-41 dated 03.05.2018 shall not be given effect to.



15. With the above observations and directions, O.A. stands disposed of accordingly at the admission stage. There shall be no order as to costs.

(NEKKHOMANG NEIHSIAL)
MEMBER (A)

(MANJULA DAS)
MEMBER (J)