

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.1863/2001

New Delhi, this 11th day of December, 2001

Hon'ble Shri M.P. Singh, Member(A)

Smt. Satinder Kaur, TGT
Rajkiya Sarvodaya Kanya Vidyalaya
Dallu Pura, Delhi-96 .. Applicant
(By Shri J.S. Malik, Advocate)

versus

1. Director of Education
Old Secretariat Building, Delhi
2. Principal
Rajkiya Sarvodaya Kanya Vidyalaya
Dallu Pura, Delhi .. Respondents
(By Shri Mohit Madan, Advocate)

ORDER(oral)

Applicant has filed this OA seeking reliefs by praying for direction to quash the order dated 20.2.2001 by declaring it illegal and arbitrary and further direction to them not to recover the excess payment paid to her and also to release HRA from February, 1999 to July, 2000.

2. Brief facts of the case are that the applicant was appointed as TGT (Hindi) in CGSS, New Ashok Nagar vide order dated 3.3.92 and presently she is working in Rajkiya Sarvodaya Kanya Vidyalaya, Dulla Pura, Delhi. She was being paid HRA w.e.f. April, 1992 to January, 1999 which she was entitled to having furnished a declaration to the effect that her husband was allotted a company accommodation. According to her, first intimation of HRA recovery was given to her on 23.2.99 and payment of HRA was stopped from her salary for the month of February, 1999. Applicant made a representation in response to OM dated 23.2.99 explaining her position under which she was rightly given the HRA. On 22.3.99 the applicant was asked to



furnish the requisite documents and thereafter she was directed to deposit a sum of Rs.56,524 on account of overpayment of HRA made to her. She again made a representation explaining the circumstances under which she was entitled to HRA. Respondents vide their letter dated 29.3.2001 rejected her representation. Aggrieved by this, she has filed this OA seeking the aforesaid reliefs.

3. Respondents in their reply have stated that in February, 1999 the applicant was asked to furnish information about her spouse in accordance with the audit requirement as the applicant herself gave the information that she is living in company accommodation at BHEL colony, 39A, Sector 17, Noida. As the applicant was misleading the department by drawing HRA while living in a company accommodation allotted to her husband, the audit pointed out this irregularity and raised objection and directed R-2 to recover the overpayment of HRA and also to stop further payment of HRA. According to the respondents, the applicant suddenly turned with a new residential address i.e. T-2342, Faiz Road, Karol Bagh. The applicant was asked by the respondents to bring the allotment letter of the company accommodation but she was unable to provide the same. The applicant was given reasonable opportunity to present her case but her contentions could not be found to be correct and true. It is stated by the respondents that an amount of Rs.32,524/- has been recovered from her and the remaining amount of Rs.24,000 is yet to be recovered. Since the husband of the applicant has been allotted company accommodation of BHEL and she is living



with her husband in that accommodation, she is entitled to draw HRA. In view of this position, the OA has no merit and is liable to be dismissed.

4. Heard the learned counsel for the rival contesting parties and perused the records.

5. During the course of the arguments, the learned counsel for the applicant has stated that the applicant has already given information about the allotment of company accommodation by BHEL and despite that respondents continued to pay her HRA. According to him, no show cause notice has been given to the applicant and she has not been afforded an opportunity to explain her case before the respondents. Respondents have on their own started making recoveries from the salary of the applicant towards excess payment of HRA. He also submitted that once the amount of HRA has been wrongly paid to the applicant, it cannot be recovered from her. In support of this, the learned counsel has relied upon the judgement of the Supreme Court in the case of Sham Babu Verma Vs. UOI 1994(2) SCC 521.

6. On the other hand, the learned counsel for the respondents has stated that there was audit objection with regard to payment of HRA to the applicant as she was living with her husband in the accommodation provided by the company at BHEL colony. Applicant was given show cause notice and was asked to furnish certain documents to consider her representation. The learned counsel also drew my attention to Annexure R-2 (colly) wherein the applicant has put her signature in token of having received a copy of the show cause notice. He



further drew my attention to Rule 62 of Central Government Account Receipt & Payment Rules, 1983 and submitted that no notice is required to be served on the applicant before effecting recoveries of overpayment of HRA made to her.

7. I have considered the rival contentions of the parties and I find from the documents placed before me that the applicant has been staying with her husband in the accommodation provided to him by the company and therefore she is not entitled to draw HRA. Learned counsel for the applicant also failed to show me any document that the applicant has given intimation to the respondents about the allotment of company accommodation to her husband. As the applicant was staying in the accommodation provided by the PSU to her husband she is not entitled to draw HRA. She was given show cause notice, was afforded opportunity to explain her case and thereafter the respondents decided to make recovery of excess payment of HRA from the salary of the applicant pursuant to audit objection and in accordance with the rules on the subject. The judgement of the Supreme Court cited by the applicant is not applicable to her case.

8. In this view of the matter, I am of the opinion that the action taken by the respondents in making recovery of excess payment of HRA from the applicant cannot be faulted. The OA is devoid of merit and deserves to be dismissed. I do so accordingly. Interim order passed on 27.7.2001 shall stand vacated. No costs.


(M.P. Singh)
Member(A)

/gtv/