

Central Administrative Tribunal
Principal Bench, New Delhi

O.A.No.1700/2000

Friday, this the 07th December, 2001

Hon'ble Shri S.A.T. Rizvi, Member (Admn)

Shri S.K. Jain, aged about 35 years,
S/o Shri N.K. Jain,
R/o Block-P, DDA Flats No. 29 G,
Dilshaad Garden, Delhi-110095

..Applicant

(By Advocate: Shri Surinder Singh)

Versus

Union of India, through,
The General Manager (P),
Northern Railway Headquarters
Baroda House,
New Delhi-110 003

..Respondent

(By Advocate: Shri R.L. Dhawan)

O R D E R (ORAL)

Non payment of HRA from 25.10.1990 to 28.2.1999 has been made the subject matter of grievance in the present OA. It is admitted that upto 15.7.1993 the applicant was sharing accommodation with his father who worked as Sr. Section Officer (Accounts) in the Western Railway and ~~he~~^{who} used to live in the Government accommodation allotted to him ~~by~~^{by} the Western Railway. On 15.7.1993, the applicant's father together with the applicant himself were thrown out of the aforesaid Government accommodation by the Western Railway and his father was made to pay a good sum of about Rs.57,000/- by way of penal/damage rent in respect of his stay in the said Govt. accommodation after his retirement from 31.7.1990 to 15.7.1993. *d*

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2. The applicant had earlier approached this Tribunal seeking the relief of allotment of Government accommodation in lieu of the aforesaid Government accommodation as a measure of compassion and for issuance of complimentary passes to the applicant's father. The aforesaid OA was disposed of as withdrawn by observing that if necessary, the applicant could approach the Tribunal in the matter of grant of HRA and complimentary passes. The present OA has been filed on the basis of the liberty given by the Tribunal in the aforesaid order.

3. The learned counsel appearing on behalf of the respondents submits that the present OA is bad due to non-joinder of General Manager, Western Railway, who is a necessary party insofar as the period from 25.10.1990 to 15.7.1993 is concerned, and also on account of limitation as the grievance in the present case arose on 25.10.1990 or immediately thereafter. He has also relied on the rule position regarding HRA reflected in Northern Railway's letter dated 25.2.1997 which provides that House Rent Allowance will not be admissible, inter alia, if the official concerned is found not to incur any expenditure on house rent and also if he/she is found to reside in an accommodation allotted to his/her parents.

4. I have considered the rival contentions raised on behalf of the parties. As regards limitation, the learned counsel appearing on behalf of the applicant submits that non-payment of HRA constitutes a continuous cause of action and, therefore, the law of limitation will not apply. In support of this claim, he has not placed any Court ruling

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before me. The learned counsel for the respondents, on the other hand, relies on the law laid down by the Supreme Court in P.K. Ramachandran Vs. State of Kerala (JT 1997 (8) SC 189). The aforesaid judgement provides that "the law of limitation may harshly affect a particular party, but it has to be applied with its vigour when the statute so prescribed and the Courts have no power to extend the period of limitation on equitable grounds". He further places reliance on a judgement rendered by the Supreme Court in Udham Singh Kamal vs. Union of India (2000 (L&S) SCC 53) which lays down that delays incurred can be condoned only if an application is first made seeking condonation of delay and further if the application so made gives proper and adequate justification explaining the delay. In the present case no application has been filed seeking condonation of delay. The only justification given is that non-payment of HRA constitutes a continuous cause of action. I have considered the aforesaid plea and find that while payment of salary and fixation of pay might constitute continuous cause of action, the payment of HRA will not constitute continuous cause of action and consequently the law of limitation laid down in the Administrative Tribunals Act, 1985 should be applied in the present case in terms of the judgement rendered by the Supreme Court in the case of P.K. Ramachandran (supra).

5. The ground of non impleadment of necessary parties does not survive as the Tribunal by its order dated 31.8.2001 had directed impleadment of General Manager, Western Railway, on the plea of learned counsel for the respondents who had appeared in the Tribunal on that date.

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6. Placing of reliance on the rule position is material, I find, only in respect of the period from 25.10.1990 to 15.7.1993 when the applicant shared accommodation with his father. Thus, if the law of limitation had not stood in his way, the applicant could seek grant of HRA from 16.7.1993 onward.

7. In the aforestated circumstance, the present OA is dismissed as time barred.



(S.A.T. Rizvi)
Member (A)

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