

(14)

Central Administrative Tribunal  
Principal Bench: New Delhi

OA No.2560 of 1990

New Delhi this the <sup>17</sup>~~13~~th day of September 1996.

Hon'ble Mr A.V.Haridasan, Vice Chairman (J)

Smt. Krishna Gupta  
Wife of Sh. S.K.Aggarwal  
R/o E-348, Nirman Vihar  
Delhi - 110 092.

...Applicant

[By Advocate: Sh. G.D.Gupta]

Versus

1. Delhi Administration  
Through its Chief Secretary  
5, Sham Nath Marg  
Delhi - 110 054.
2. The Accounts Officer (HQs)  
Dte. of Audit  
Delhi Administration  
Old Secretariat  
Delhi - 110 054.
3. The Director of Education  
Delhi Administration  
Old Secretariat  
Delhi - 110 054.
4. The Accounts Officer (Audit)  
Dte. of Education  
Delhi Administration  
Old Secretariat  
Delhi - 110 054.
5. The Principal  
Govt. Co-Education Senior Secondary School  
President Estate  
New Delhi

..Respondents.

O R D E R

Hon'ble Mr A.V.Haridasan, Vice Chairman (J)

This application is directed against the action of the respondents in denying to the applicant house rent allowance (HRA). The facts are as follows:

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2. The applicant is a Trained Graduate Teacher (TGT) under the Directorate of Education. Her husband Sh. S.K. Aggarwal is employed as a Manager in the Bharat Heavy Electricals Ltd (BHEL). While they were living in a private rented accommodation till April 1985, both of them were getting HRA. In 1985, her husband constructed a residential building in Nirman Vihar. The building was leased to BHEL by him on a monthly lease amount of Rs. 1300/-. BHEL hired the accommodation for the residence of the husband of the applicant. According to the status and pay of Sh. Aggarwal, he was entitled to have a building on rent at Rs.992/- per month upto June 1986 and thereafter Rs. 1100/- per month. Therefore, he had to pay back to the BHEL Rs. 308/- per month till 24th June 1986, and thereafter, Rs. 200/- per month towards excess amount of rent. Taking a stand that the husband of the applicant has been provided with a hired accommodation by BHEL in the same station and that the applicant is staying in that premises alongwith her husband, the respondents disallowed the applicant the HRA. Stating that the husband of the applicant had to pay in addition to 10% of his pay for the hired accommodation Rs. 308 upto 24th June 1986 and Rs. 200/- thereafter per month, in addition to the payment of house tax and that, therefore, it cannot be held that the applicant was staying in a free accommodation provided to her husband by BHEL.. The applicant made several representations to the respondents requesting to grant her the HRA. These representations of the applicant did not evince any favourable response. Therefore, the applicant has prayed in this

application that it may be declared that she is entitled to get HRA from the date it was illegally denied to her. It has been stated in the application that since the husband of the applicant was liable to pay 10% of his pay towards the hired accommodation in accordance with the provisions contained in the Fundamental Rule 45 (iv) (b) and since he has been paying more than that and as the hired accommodation belongs to her husband, on a harmonious interpretation of the rules in the light of the Government order dated 19th March 1987 on acceptance of the recommendations of the Fourth Pay Commission, the respondents have to treat that the applicant is residing in her own accommodation and to pay HRA to her as per rules.

3. The respondents in their reply contend that in accordance with the Rule 5 C(iii) of General Rules & Orders of HRA & CCA, the applicant who is residing in an accommodation allotted in the same station to her husband by BHEL which is an autonomous Public Undertaking, is not entitled to get HRA and, therefore, she is not entitled to the relief prayed for.

4. The applicant has filed a rejoinder reiterating the contentions raised in the OA. When the application came up for hearing, Sh. G.D.Gupta, advocate appeared for the applicant and none appeared for the respondents. Since none was appearing for the respondents on 8.8.1996, notices were issued to the respondents directing them to appear either in person or through counsel on the next date of hearing. In spite of service of notices, none appeared for the respondents. Therefore, I have perused the pleadings in this case and have heard Shri G.D.Gupta, learned counsel for the applicant. The



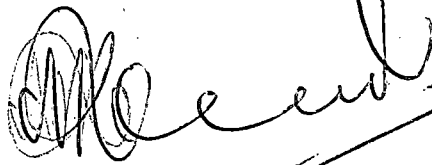
facts that are not disputed in this case are that the applicant is residing with her husband who is an employee of BHEL and for whose residence BHEL has hired the residential building belonging to him. The lease amount is Rs.1300/- per month while the applicant's husband is presently entitled to a limit of Rs. 1100. Therefore, in addition to 10% of his pay, an amount of Rs. 200/- per month is being recovered from the pay of the applicant's husband by the BHEL. Sh. G.D.Gupta argued that as the applicant's husband is made to pay Rs. 200/- per month in excess of 10% of his pay towards licence fee and as he has to incur additional expenses by way of maintenance of the building and payment of house tax and, ~~therefore,~~ the disability of the applicant to receive HRA is not attracted in this case. I am not all impressed with this argument. If ~~as per~~ <sup>eng</sup> the applicant's ~~her~~ husband is liable to pay 10% of his pay towards the licence fee and something more than what is due from him is being recovered by BHEL, it is for the husband of the applicant to make a claim against BHEL. As the fact remains that the applicant's husband has been allotted the hired accommodation by the BHEL, though the ownership of the building rests in him, his status as the allottee of the hired accommodation is not altered. Therefore, the applicant is residing with her husband in the accommodation hired by BHEL for the residence of her husband. In accordance with the provisions of Rule 5 C (iii) of the General Rules & Orders of HRA & CCA which reads as follows:

"Rule 5 C(iii): A Government servant shall not be entitled to house rent allowance if his/her wife/husband has been allotted accommodation at the same station by the Central Government/State Govt, an autonomous public undertaking or semi-govt.

organisation such as Municipality, Port Trust etc., whether he/she resides in that accommodation or he/she resides separately in accommodation rented by him/her."

the applicant is not entitled to HRA. The action of the respondents in denying HRA to the applicant under the circumstances cannot be faulted.

5. In the result, finding no merit in the application, the application is dismissed, leaving the parties to bear their own costs.



[A.V. Haridasan]  
Vice Chairman (J)

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