

(3A)

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH  
NEW DELHI

C.P.No.154/94  
M.P.No.3318/93 in  
O.A.No.1494/92

New Delhi, this the 14th day of November 1994

S.C.Saxena  
s/o Shri Ram Charan Lal  
r/o 830, Kucha Puti Ram  
Gita Ram Bazar, Delhi. ..Petitioner  
(By Advocate Shri B.B.Raval)

Vs.

1. Shri N.N.Vohra  
Secretary,  
Ministry of Home Affairs  
Government of India,  
North Block, New Delhi.

2. Shri V.G.Vaidya,  
Director,  
Intelligence Bureau,  
Ministry of Home Affairs,  
Government of India,  
North Block, New Delhi.

3. Shri M.M.Kapoor,  
Assistant Director,  
Intelligence Bureau,  
Ministry of Home Affairs,  
Government of India,  
New Delhi. ..Respondents  
(By none)

ORDER  
HON'BLE SHRI P.T.THIRUVENGADAM MEMBER (A)

Pending disposal of the O.A.No.1494/92  
a Miscellaneous Application No.3318/93 was filed  
by the applicant and this M.A. was disposed of  
on 21-3-94 with the following directions:-

"As an interim measure, we direct  
the respondents to treat the  
applicant as having remained on  
sanctioned leave from 27-2-92 to  
26-3-92 and pay him accordingly  
for the said period. The respon-  
dents shall be entitled to reduce  
the period for which leave  
encashment is due to the applicant."

x x x

"As an interim measure, we direct  
the respondents to proceed on

the facting that the applicant  
is entitled to leave encashment  
for 137 days and make the  
necessary payments accordingly."

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This contempt petition No.154/94 has been filed  
in May 1994 for the alleged non-obedience of  
the orders passed in the M.A. mentioned.

2. The respondents have brought out in their  
reply/additional reply that leave salary for the  
period from 27-2-92 to 26-3-92 and cash equivalent  
to 137 days earned leave have been paid to the  
applicant by way of two cheques amounting to  
Rs.8,337/- and Rs.4,092/- handed over to learned  
counsel for the applicant on 8-6-94 across the  
bar. A third cheque was handed over to the  
applicant in person on 11-10-94 again across  
the bar. With the payment of these amounts  
it has been explained that the entire amount  
as due as per the orders of this Bench in M.A.  
No.3316/93 on 21-3-94 has been paid to the  
applicant.

3. The learned counsel for the applicant  
raised the issue regarding the non-payment of  
HRA and CCA for the period from 27-2-92 to  
26-3-92 which was treated as sanctioned leave  
as per the orders of this Tribunal. The stand  
of the respondents is that the applicant is  
ineligible for these allowances during the  
relevant period in view of Rule 6 of F.R/S.R  
Part-V relating to drawal of HRA and CCA. The  
rule reads as under:-

"REGULATION OF ALLOWANCES  
IN DIFFERENT CIRCUMSTANCES

6. The drawal of compensatory (city)  
allowance and/or house rent allowance  
in the following cases shall be  
regulated as stated below:-

A government servant will be

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entitled to draw compensatory (city) and house rent allowances during leave at the same rates at which he was drawing these allowances before he proceeds on leave. For this purpose leave means total leave of all kinds not exceeding 180 days (since raised to 240 days) and the first 180 days (since raised to 240 days) of the leave if the actual duration of the leave exceeds that period, but does not include terminal leave, whether running concurrently with the notice period or not. When vacation or holidays are combined with leave, the entire period of vacation or holidays and leave should be taken as one spell of leave."

It was further explained by the learned counsel for the respondents that the petitioner was absent from duty from 7-7-89 to 27-4-92 and his absence for the said period was regularised by treating the period as dies-non/granting him E.L. for 29 days. Since the absence from duty exceeds 240 days, he is not entitled to HRA & CCA for the said period i.e. 27-2-92 to 26-3-92 in terms of above provisions. Accordingly no HRA/CCA was paid to him for the above period.

4. The learned counsel for the applicant under Rule 6 however relied on Note 3 supra, which Note reads as under:-

"In cases, where a Government servant who is sanctioned leave whether on medical grounds or otherwise, does not join duty after availing himself of such leave, and resigns, he shall not be eligible for compensatory (city) allowance and house rent allowance for the entire period of such leave. The Administrative Authority concerned shall ensure that the entire amount drawn on this account is recovered before resignation, etc. is accepted."

5. On a perusal of the rule and the Note referred, we are satisfied that the applicant was not eligible for CCA and HRA for the relevant period, since prior to the leave period from 27-2-92 he was not eligible to draw these allowances.

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Note 3 quoted by the learned counsel for the applicant will come in the picture only when the employee is otherwise eligible for such allowances.

6. In the contempt petition the applicant has also claimed interest for two years at 25%. Since the orders passed by this Tribunal in M.A.3318/93 in O.A.No.1494/92 have not stipulated the payment of any interest, the relief claimed at this stage is rejected.

7. Since the orders in the M.A. have been complied with, this contempt petition is dismissed and the notice issued to the respondents is discharged. No costs.

P.T.Th.  
14/11/94  
(P.T.THIRUVENGADAM)  
Member(A)

*S. Mathur*  
14.11.94  
(S.C.MATHUR)  
Chairman.

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