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CENTRAL ADMINISTRATIVE TRIBUNAL: PRINCIPAL BENCH.

O.A. NO. 753/93

New Delhi this the 9th day of June, 1994.

Shri N.V. Krishnan, Vice-Chairman.

Mange Ram Dixit,
S/o Prabhu Dayal Dixit,
R/o RZ-11-C, Poorn Nagar,
Palam Colony,
New Delhi.

..Petitioner.

By Advocate Shri K. Venkatraman.

Versus

1. Union of India through
The Secretary,
Ministry of Home Affairs,
New Delhi.
2. Director,
Intelligence Bureau,
Intelligence HQ,
New Delhi.
3. Ministry of Home Affairs,
through Assistant Director
(Intelligence Bureau),
North Block,
New Delhi.
4. Ministry of Finance,
(Deptt. of Expenditure),
through its Secretary,
New Delhi.

..Respondents.

By Advocate Shri N.S. Mehta.

ORDER (ORAL)

Shri N.V. Krishnan.

1. This O.A. was heard on 20.12.1993 and an oral order was dictated. Before it was signed, it was felt necessary to rehear the case. That has since been done.
2. The applicant is employed in the Intelligence Bureau (IB for short). His grievance relates to the denial of the benefit of the Ministry of Finance (Department of Expenditure) O.M. dated 29.3.1984 (Annexure-I) whereunder special facilities have been provided for employees of the Central Government serving in the States and the Union Territories of the North-Eastern region.

3. The applicant commenced his service in the IB on 4.8.1986 when he was appointed to Shivpuri for training vide Annexure-B. On completion of training, the applicant was brought to Delhi for a further course of training at Delhi w.e.f. 30.11.1986. On completion of his training at Delhi, he was posted out to the office of Deputy Director, SIB, Shillong by the Annexure-F order dated 30.12.1986. While under training at Delhi, he was provided hostel accommodation by the respondents free of cost. He claims that his family was, however, residing in Delhi in a rented accommodation during that period. Admittedly, he was not paid any house rent allowance (HRA for short) at Delhi.

4. On his posting at Shillong, he was given Government accommodation and, therefore, he did not claim any HRA. The applicant's contention is that in such a circumstance, he is entitled to the benefit of HRA in respect of the accommodation at Delhi as provided in the Annexure-T memorandum dated 29.3.1984 of the Ministry of Finance (Department of Expenditure). That O.M. which calls for interpretation is reproduced below:

"The undersigned is directed to refer to para 5 of this Ministry's O.M. No. 20014/3/83-E.IV dated the 14th December, 1983, on the subject noted above, and to state that the question of payment of House Rent Allowance to Central Government Civilian Employees who are posted in the States of Assam, Meghalaya, Manipur, Nagaland, and Tripura and the Union Territories of Arunachal Pradesh, Mizoram and Andaman & Nicobar Islands has been considered and the President is pleased to decide as follows:

(a) Central Government employees who were in occupation of hired private accommodation at the last station of posting before transfer of any of the States/Union Territories mentioned above may be allowed to draw House Rent Allowance admissible to them at that station.

(b) Such Central Government Civilian employees may also be allowed to draw, in addition to (a) above, House Rent Allowance at the rates admissible at the new place of posting in the aforesaid States/Union Territories in case they live in hired private accommodation.

(c) The benefits mentioned in (a) and (b) above will also be admissible to Central Government employees who get transferred from the State/Union Territory of the North Eastern Region to another State/Union Territory of the North-Eastern Region mentioned above".

5. The need for rehearing arose as it was not clear whether benefit of clause (a) is available even if the family also proceeded to Shillong with the applicant on his transfer. The applicant has clarified that on his transfer from Delhi he left behind his family at Delhi in hired accommodation. Hence, he claims the benefit of clause (a) of the Annexure-T O.M. He claims that this is his due, even though, as a matter of fact, he stayed only in a hostel accommodation provided by the Government and he was not in receipt of any HRA.

6. In the circumstances, he has filed this O.A. seeking a direction to the respondents to grant additional HRA w.e.f. 21.7.1987 to 10.6.1991 for the period he was posted in North-Eastern Region in respect of the hired accommodation he retained at Delhi for his family.

7. The respondents have filed a reply. The main contention of the respondents is that the applicant does not satisfy the conditions laid down in the Annexure-T memorandum. Great emphasis is laid on the fact that during the period of his stay at Delhi the applicant was given hostel accommodation free of cost and, therefore, he was in occupation of hired private accommodation. Therefore, on his posting to Shillong he did not have any antecedent of having stayed in hired private accommodation. On this ground the respondents have denied to him the benefit of double HRA otherwise permissible under Annexure-T.

8. The learned counsel for the applicant points out that for the purpose of the Annexure-T memorandum, the fact that he would have been otherwise entitled

to HRA at Delhi, had he not been given hostel accommodation should be taken into account. In this connection he draws my attention to the Annexure U advertisement of the respondents relating to his recruitment which indicates that the selected persons will be entitled to pay pluse HRA on the basis of the Government Rules.

9. The learned counsel for the respondent emphasized that the benefit of the Annexure-T O.M. can be given only if the conditions therein are satisfied. Obviously, the applicant has not satisfied the condition in Para 1 (a). It was also contended that the applicant was only posted to Shillong and not transferred, because, this was his first posting after training.

10. I have carefully considered the rival submissions

11. There is no merit in contending that the applicant was not transferred. After the training, he could have been given the first posting in Delhi itself. Instead, he was transferred to Shillong for the posting and he certainly would have been granted transfer T.A, etc.

12. Respondents also do not have a case that during training HRA is not allowed. No such order has been produced. During training, the applicant is required to stay in a hostel. Hence, he is prevented from claiming HRA. But for the circumstance, H.R.A. could have been prayed.

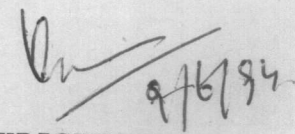
13. In my view the Annexure-T O.M. should not be interpreted mechanically. The objective of that O.M. has to be taken into account. The objective was to induce Government employees to accept a posting in the North-Eastern Region. For this purpose an incentive was given. This permitted such Government employees the facility of retaining their hired accommodation in the place where they were last posted so that they can keep their family at the last station and thus

move out to the North-Eastern Region. Hence, the HRA at the last station is paid in addition.

14. In so far as the applicant's case is concerned, the fact that he was not given HRA at Delhi is of no consequence. In my view, the spirit of Annexure-T O.M. requires that in such a case the presumptive HRA which one would have got at the old station, had not the Government accommodation been allotted should be taken into account.

15. In this view of the matter I am satisfied that the applicant is entitled to relief. The O.A. is disposed of as follows:

- (1) I direct that the presumptive HRA, which the applicant would have received at Delhi, had he not been given hostel accommodation prior to his transfer to Shillong, should be taken into account for allowing the claim made under the Annexure-T O.M. dated 29.3.1984
- (ii) The applicant is entitled to the HRA in terms of para (a) of that O.M, if during his posting in the North-East, he had left behind his family at Delhi, the last station, in a hired accommodation.
- (iii) The respondents are directed^{ed} to recompute the HRA payable to the applicant in terms of these declarations after^{re} clarification of facts, if necessary, and make payment to the applicant within a period of two months from the date of communication of this order. No costs.


(N.V. KRISHNAN)
VICE-CHAIRMAN