

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH

ALLAHABAD

Allahabad : Dated this 5th day of July, 2001.

Original Application No. 605 of 1998.

CORAM :-

Hon'ble Mr. SKI Naqvi, J.M.

1. Ashok Kumar Son of Sri Brij Koshore, R/o D-65/408, Lahar Tara, Varanasi.
2. Bhagwan Das Yadav Son of C.D. Yadava, Fitter Diesel Electriict, R/o Pandeypur, Varanasi.
3. Dilip Kumar (D.K. Biswas) Son of Sri Kalika Prasad, Resident of K-22/67, Durga Ghat, Varanasi.
4. M.K. Saxma, Son of J.N. Saxma, Resident of C.K. 65/442, Piari Kala, Varanasi.
5. M.A. Ansari, son of Sri Mohd. Nazir, R/o Varuna Bridge, Varanasi,
6. P.K. Chaubey, son of Late Sri Bajrang Chaubey, R/o B-2/225-C, Bhadaini, Varanasi.
7. Pancham Prasad, Son of Basu Ram, R/o C/o U.P. Patel House No.6/186, Aktha, Varanasi.
8. S.C. Srivastava, Son of G.P. Srivastava, R/o House No.S-21/114-C-7, Neel Cottage, Maldhiya, Varanasi.
9. Sheo Murti Ram, Son of Shukh Ram, R/o S-19/84, Rai Krishna Chandra Nagar, Varanasi.
10. Tarak Nath, son of Sri S. Ranjan, Resident of B-7/139, Kedar Ghat, (Bhagwan), Varanasi.

(Sri V.K. Srivastava, Advocate)

..... Respondents

Versus

1. Union of India through its General Manager, Northern Railway, Baroda House, New Delhi.
2. General Manager (P) Northern Railway, Headquarter Office, Baroda House, New Delhi.
3. Divisional Rail Manager, Northern Railway, Lucknow.
4. Senior Divisional Personnel Officer, Norther Railway, Luckbow.

*S.C. Srivastava*

5. Senior Divisional Mechanical Engineer,  
Diesel, Northern Railway, Mugalsarai.

(Sri Prashant Mathur, Advocate)

..... Respondents

O R D E R (O\_f\_a\_l)

By Hon'ble Mr. SKI Naqvi, J.M.

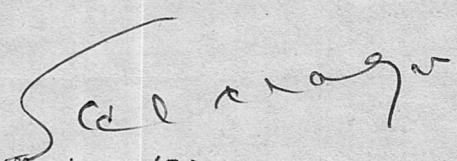
In pursuance of authorisation, the General Manager Northern Railway, sanctioned payment of House Rent Allowance and City Compensatory Allowances from 05-1-1981 to the staff working at Mugalsarai and residing within the municipal limits of Varanasi out of necessity. It was on the recommendation of the IVth Pay Commission. House Rent Allowance at the specified rate was allowed for the unclassified places w.e.f. 01-10-1986 and as such the staff posted at Mugalsarai but residing at Varanasi became not entitled to draw house rent allowance and city compensatory allowance at the rate as admissible for Varanasi. Under the circumstances the Railway Board vide letter dated 16-7-1990 had issued circular by which the list of cities which were classified and upgraded were released. In this list Mugalsarai had been declared as Class 3 town and thereby the entitlement of house rent allowance to the staff posted at Mugalsarai was to be paid in accordance with the admissibility for class 3 town. This, therefore, was given effect from 01-7-1990. As per applicants' case they were allowed house rent allowance till 1998 which was admissible to them in accordance with the position as it stood in 1981 and thereafter their house rent allowance was ~~slashed~~ and they are being subjected to recovery of difference right from July, 1990. Now they have come up seeking relief against the orders dated 27-1-1998 and 20-5-1998 and have sought for a direction to the respondents not to make any recovery.

*Sev.*

2. The respondents have contested the case, filed counter reply with the mention that the recovery has been directed against overpayment to which the applicants were not entitled under rule and it is only taking back the amount which was paid unauthorisedly.

3. It is not in dispute that the Railway Board Circular of 1990 which is meant for all the Railways and has been implemented except Northern Railway, <sup>by</sup> in view of legal position and rules in this regard and the applicants cannot be allowed to ~~get~~ house rent allowance beyond their entitlements. So far as the question of recovery is concerned, it is quite clear that it was not claimed by them but voluntarily allowed by the employer. Need not to mention that house rent allowance is compensatory allowance against the actual payment and, therefore, its recovery will be undue hardship to the applicants. <sup>To arrive</sup> Arriving at this conclusion, I get support from the law laid down by Hon'ble Supreme Court in case of Selvaraj Vs. Lt Governor, Island Port Blair, cited as (1998) 4, SCC 291 P.290.

4. For the above, the DA is decided with the finding that the applicants shall be entitled to house rent allowance only to the extent as admissible under Railway Board letter dated 16-7-1990 but shall not be subjected to recovery for the excess payment <sup>as per impugned order</sup> ~~under the statute~~. The DA is decided accordingly with no order as to costs.

  
Member (J)

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