



CENTRAL ADMINISTRATIVE TRIBUNAL

CHANDIGARH BENCH

O.A. No. 060/1346/2018

(Order reserved on 17.03.2021)

Chandigarh, this the 19th day of March, 2021

HON'BLE MRS. AJANTA DAYALAN, MEMBER (A)

Ravinder Kumar aged 50 years s/o Phool Chand r/o House No. 844 Housing Board Colony PO Baldev Nagar Ambala City Haryana working as Technical Officer, Govt. of India Press, Nilokheri, Haryana, Chandigarh Group C. Pin - 132117

.....Applicant

By Advocate: Ms. Namita Kandhari

Versus

1. Union of India through Secretary, Ministry of Urban Development and Poverty Alleviation, New Delhi-110011.
2. The Director, Directorate of Printing Press B Wing, Nirman Bhawan, New Delhi-110011.
3. The Manager Govt. of India Press, Nilokheri, Karnal, Haryana-132117.

.....Respondents

By Advocate: Sh. Sanjay Goyal

ORDER

AJANTA DAYALAN, Member (A):

1. The present OA has been filed by the applicant Ravinder Kumar seeking quashing of order dated 27.02.2018 (Annexure A-1) and order dated 13.07.2018 (Annexure A-2) declining the request of the applicant for grant of HRA for the



period from 04.01.2018 to 12.08.2018 along with interest at the rate of 18% per annum from the due date till the date of actual payment. The applicant has also requested for issue of directions to the respondents to this effect.

2. The applicant has stated that he was appointed as a Junior Artist in the respondent department in 1992 and is presently working as Technical Officer w.e.f. 2012 onwards. Directorate of Printing, New Delhi vide office order dated 29.12.2017 (Annexure A-3) decided to merge/rationalize the existing 17 Government of India Presses (GIPs)/Government of India Test Books Presses (GITBPs)/Units into five Government of India Presses – three located at New Delhi and one each at Kolkata and Nasik. All the employees had to be redeployed or adjusted in other departments. The name of the applicant was included in this order for redeployment in Government of India Press, Mayapuri, New Delhi.

3. Meanwhile, the litigation regarding closing of Printing Press, Nilokheri reached this Tribunal and the Tribunal vide order dated 10.01.2018 (Annexure A-4) directed status quo to be maintained with regard to applicants therein/association.

4. The applicant further states that being a responsible officer, he vacated the Government accommodation allotted to him on 03.01.2018. The same was taken over by CPWD on the same date (Annexure A-5).

5. The case of the applicant is that after vacation of his Government accommodation on 03.01.2018 in pursuance of the transfer order dated 29.12.2017, the applicant was not having



any accommodation, either in Nilokheri (the place of last posting) or in New Delhi (the place where he was transferred to as per order of 29.12.2017). As such, he is entitled for HRA after vacation of the Government accommodation allotted to him.

6. The applicant made representations dated 20.01.2018 (Annexure A-6) and 23.02.2018 (Annexure A-7). However, without considering the grounds of the applicant, the respondents have rejected his prayer for granting HRA or for providing Government accommodation. They have also not granted HRA vide orders dated 27.02.2018 and 13.07.2018 (Annexures A-1 and A-2 respectively). A legal notice dated 24.08.2018 (Annexure A-8) was also served. However, the respondents have again rejected the request vide order dated 12.09.2018 (Annexure A-9).

7. In view of the above, the applicant has claimed that he being a dutiful Government servant, on receipt of his transfer orders from Nilokheri to New Delhi, vacated his Government accommodation at Nilokheri. Thereafter, he had no accommodation, either at Nilokheri or at New Delhi and as such, he is entitled for a Government accommodation or HRA. Therefore, he is entitled to the relief sought in the OA and the OA deserves to be allowed.

8. The respondents have contested the claim of the applicant. They have stated that the orders dated 27.02.2018 and 13.07.2018 are as per HRA Rules. The respondents have relied upon Government Accommodation Rule SR 317-B-14 (Annexure R-1) which states as follows:-



"(1) An officer may at any time surrender an allotment by giving intimation so as to reach the Directorate of Estates at least ten days before the date of vacation of the residence. The allotment of the residence shall be deemed to have been cancelled with effect from the eleventh day after the day on which the letter is received by the Directorate of Estates or the date specified in the letter whichever is later. If he fails to give due notice he shall be responsible for payment of license fee for ten days or the number of days by which the notice given by him falls short of ten days, provided that the Director of Estates may accept a notice for a short period.

(2) An officer who surrenders the residence under sub-rule (1) shall not be considered again for allotment of Government accommodation at the same station for a period of one year from the date of such surrender."

9. Further, the respondents have relied upon para 4(B)(I) of HRA Rules (Annexure R-2) which reads as follows:-

"The HRA is not admissible for the period employees are debarred from further allotment on their surrender/refusal of allotted accommodation."

10. The respondents have also relied on Government Accommodation Retention Rule SR 317-B (11) (2) (Annexure R-3) which states that the Government employee transferred to a place outside the station may retain the Government accommodation upto two months. They have further pleaded that the applicant surrendered Government accommodation at his own sweet will whereas he could have retained the same upto two months. The office never asked him to vacate his accommodation. Further, it is pleaded that as per para 4(B)(I) of HRA Rules, the HRA is not admissible for the period employees are debarred from further allotment on their surrender/refusal of allotted accommodation. The applicant has been debarred for one year w.e.f. 03.01.2018 for further allotment of Government



accommodation. Hence, as per HRA Rules, the applicant is not entitled to HRA also.

11. The respondents have further pleaded that the representation of the applicant was forwarded to their Head Office that is Directorate of Printing, New Delhi for consideration and direction. In response, the Head Office issued OM dated 26.04.2018 (Annexure R-4) with the direction that action as per rules may be taken by the Manager, Government of India Press, Nilokheri and as per rules, the applicant is not entitled to HRA at Government of India Press, Nilokheri. As such, the representation was considered and it was found that the applicant is not entitled for HRA in terms of rules quoted above.

12. The respondents have therefore concluded that the applicant is not entitled for HRA and there is no legal force in the prayer of the applicant. As such, HRA has been rightly denied to the applicant and the OA deserves to be dismissed.

13. I have heard the counsel of the opposing parties and have also gone through the pleadings of the case. I have also given my thoughtful consideration to the entire matter.

14. I find that the facts in the case are not disputed. The applicant was posted at Nilokheri. Vide order dated 29.12.2017, consequent to merger of Government of India Press, Nilokheri with Government of India Press, Mayapuri, the office personnel of Government of India Press, Nilokheri were deployed in Mayapuri. The list of employees deployed from Nilokheri to Mayapuri Press included the name of the applicant at Sr. No. 1. Consequent to this, the applicant vacated his



Government accommodation at Nilokheri on 03.01.2018. He claimed for HRA from 04.01.2018 till 12.08.2018.

15. I find that the main difference is not with regard to the facts of the case, but with regard to the interpretation of rules. The respondents are interpreting the vacation of quarter by the applicant on 03.01.2018 as surrender of Government accommodation allotted to him. As such, they firstly debarred him for a period of one year under Rule SR 317-B-14 of HRA Rules (Annexure R-1). Thereafter, they have further declined HRA as per Rule 4(B) (I) of HRA Rules which states that "The HRA is not admissible for the period employees are debarred from further allotment on their surrender/refusal of allotted accommodation." (Annexure R-2). Thus, from 04.01.2018 onwards, the applicant has been debarred from allotment of Government accommodation at Nilokheri and has also not been paid HRA. According to the respondents, this is as per applicable rules.

16. However, I find that what is being totally missed out here in the respondents' version here is that it was the department which issued transfer order dated 29.12.2017. Vide this order, the applicant was transferred from Nilokheri to New Delhi. In pursuance thereof, the applicant vacated his Government accommodation on 03.01.2018. Thus, this vacation of accommodation in pursuance of transfer order can in no way be treated as surrender of accommodation which entails adverse action by the respondents by way of debarment from further allocation. The vacation of accommodation was in pursuance of



department's order of transfer which the applicant was complying with. It is also noteworthy to remember that on this date of vacation on 03.01.2018, even this Tribunal's order staying the transfer order was not available. That order was issued only on 10.01.2018. The applicant had vacated his accommodation much before that. Thus, he was, in fact, an obedient Government servant who followed the order issued by respondent department.

17. It is also noteworthy that the argument of the respondents that the applicant could have retained the Government accommodation upto two months subsequent to his transfer is not acceptable or reasonable. The limit of two months for retaining Government accommodation by the Government employee on his transfer is an option available to Government servant. It is not that a Government servant who does not wish to avail of this facility is to be adversely acted upon. Decision to retain the Government accommodation by the Government servant subsequent to his transfer may depend on other circumstances like whether the Government servant wishes to make a second trip to his old station of posting to vacate the accommodation or he wishes to shift to his new place of posting at one go and such other considerations. This, in any case, does not invite adverse action against him if he chooses not to avail of this facility.

18. I also observe that the action of the Government servant to vacate his accommodation on 03.01.2018 itself in pursuance of the transfer order dated 29.12.2017 is not in any



manner an action that the respondent department can find fault with. The Tribunal's orders staying the transfer order were issued on 10.01.2018 – that is after vacation of Government accommodation by the applicant on 03.01.2018.

19. Thus, I find that the vacation of the Government accommodation by the applicant on 03.01.2018 is not surrender, but only a vacation of the accommodation. It is incidental that this Tribunal gave stay on transfer orders consequent to the merger of the Presses subsequently. But, this cannot and should not adversely impact the applicant who obediently followed the orders issued. The orders debarring him from further allotment of Government accommodation or HRA are, therefore, not reasonable in view of specific and peculiar facts of this case.

20. In view of the observations made above, this OA is allowed. Orders dated 27.02.2018 (Annexure A-1) and 13.07.2018 (Annexure A-2) are quashed. The respondents are directed to pay HRA admissible to the applicant keeping in view above observations.

21. There shall be no order as to costs.

**(Ajanta Dayalan)
Member (A)**

Place: Chandigarh
Dated: March 19th, 2021
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