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CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD.

ORIGINAL APPLICATION NO 297 of 1987
Sri Hari Prasad Applicant.

Vs.
Union of India, through Director General, Respondents.
Posts and others

Hon'ble D.S. Misra, A.M.

Hon'ble G.S. Sharma, J.M.

(By Hon'ble D.S. Misra)

This is an application under Section 19 of the Administrative Tribunals Act XIII of 1985 against the order dated 18.2.1986 passed by the Post Master General Lucknow (respondent no 2) rejecting the claim of the applicant for grant of House Rent Allowance from 22.4.77 to 17.9.1977.

2. The applicant's case is that he worked as Sub Post Master Chaubeypur Post Office in Varanasi District from 22.4.1977 to 17.9.1977; that after joining the service, the applicant made certain efforts and approaches to Senior Superintendent, Post Offices, Varanasi and moved an application on 11.5.77 for providing him free accommodation or for giving him House Rent Allowance (copy annexure 1); that on 23.6.78 the Senior Superintendent Post Offices, Varanasi passed an order granting him House Rent Allowances (copy annexure 2), but subsequently on 18.9.78 cancelled his previous order without holding proper inquiry; that the applicant filed an appeal before the respondent no 2, who rejected the appeal vide order dated 1.10.1985 (copy annexure 6); that the applicant filed representation before the Director General, Post Offices, and the Asstt. Director vide his letter dated 28.1.86 rejected the claim ignoring the provisions laid down in the House Rent Allowance Rules (copy annexure 7); that the Post

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Master General, U.P. Circle Lucknow had confirmed the order of the Asstt. Director General on 18.2.86 (copy annexure 8).

3. In the reply filed on behalf of the respondents, it is stated that on inquiry it was found that the official did not stay at the place of his posting and therefore his claim for House Rent Allowance was rightly rejected and the same was confirmed by the Post Master General, U.P. Circle Lucknow.

4. A rejoinder affidavit was filed on behalf of the applicant in which it is stated that the rent free accommodation available at the place of his posting was not in a suitable condition for residential purposes.

5. We have heard the arguments of the learned counsel for the parties and have carefully gone through the documents on record. The main ground taken by the applicant in support of his claim is that the residential accommodation available at Chaubeypur was not suitable for residence. He was forced to stay at another place and that he was entitled to the House Rent Allowance in accordance with the provisions of H.R.A and C(C)A Rules 1986. Neither the applicant nor the respondents have filed a copy of the relevant rules which govern the House Rent Allowance to the Government Servants. We are of the opinion that the title of the rules quoted in the claim petition is not a correct description of the relevant rules and in any case as the claim relates to the period April 1977 to September 1979, the 1986 rules will not be applicable to his claim. The rules regarding

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payment of house rent allowance to the government servants are reproduced in Part V of SWAMY'S COMPILATION OF F.R. & S.R. and the areas where such allowance is admissible are given at page 8 of this Book corrected upto 1st Feb. 1986. Sub Clause (ii) of Clause (b) of Rule 3 reads as follows:

R.3(b)(ii): - Government servants whose place of duty is in the proximity of a qualified city, and who, of necessity have to reside within the city, may be granted the compensatory (city) and house rent allowances admissible in that city. The Administrative Ministries/Departments, and the comptroller and Auditor General in respect of staff serving under him, are authorised to sanction the allowances under this clause provided they are satisfied that--

(1) the distance between the place of duty and the periphery of the municipal limits of the qualified city does not exceed 8 kilometres; and

(2) the staff concerned have to reside within the qualified city out of necessity i.e., for want of accommodation nearer their place of duty."

The contention of the applicant is that as the place of his duty was within 8 kilometres of the city of Varanasi and as he was residing within the city area as of necessity, he was entitled to the House Rent Allowance claimed by him. In support of this claim, the applicant has filed a certificate of City Engineer, Building Varanasi Vikash Pradhikaran, Varanasi dated 30.8.79 in which it is stated that village Chaubeypur is situated within 8 kilometres of the boundary of Nagar Mahapalika Varanasi, i.e., Vikash Pradhikaran boundary. This claim of the

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applicant had been contested by the respondents who have relied upon a letter dated 23.2.1981 of Collector Varanasi in which it is stated that the Village Chaubeypur is situated at a distance of 12 kilometres from Nagar Mahapalika, Varanasi boundary. Learned counsel for the applicant contended that the certificate given by the City Engineer, Varanasi Development Authority was more reliable than the certificate given by the Collector Varanasi. We are unable to accept this contention of the applicant as the Collector of a District is the competent revenue authority dealing with the land contained within the jurisdiction of that district. The applicant has also relied upon an inspection report dated 4.2.1977 of the Inspector Post Offices Central Sub Division, Varanasi in which it is stated that the residential portion of the building has become quite useless. The applicant's contention is that he was forced to live at a place because the building was not suitable. The Senior Superintendent Post Offices, Varanasi Division, Varanasi vide his letter dated 19.12.79 informed the applicant that there is no rule regarding sanction of HRA in lieu of rent free accommodation to the Sub Post Master not residing in the same station. The applicant has failed to indicate or produce any rule under which he was entitled to HRA in the above mentioned circumstance.

For the reasons mentioned above, there is no merit in the claim petition and the same is rejected without any order as to cost.

[Signature]
A.M. 7.1.88

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J.M. 7/1/88

JS/7.1.1988