

RESERVED

Central Administrative Tribunal, Allahabad Bench,
Allahabad.

Dated this 8th day of December 1998.

Coram: Hon'ble Mr. S.K. Agarwal, Member (J.)

Original Application No. 1644/93

Dr. (Mrs) Ritoo Bhalla wife of Dr. M. Bhalla
Pass No. 7AFH/FW/10 resident of C/O Family Welfare
Centre No. 7 Air Force Hospital, Nathu Singh Road,
Catt. Kanpur Nagar.

Applicant.

C/A Sri R.S. Mishra, Advocate.

Versus

1. Union of India through Commanding Officer No.7
Air Force, Hospital, Nathu Singh Road, Cantt,
Kanpur Nagar.
2. Director General of Armed Forces Medical Services
Raksh Mantralaya, Karyalaya Maha Nideshak,
Sashastra Sena Chikitsa Sewa 'M' Block, New Delhi
Pin-110001.

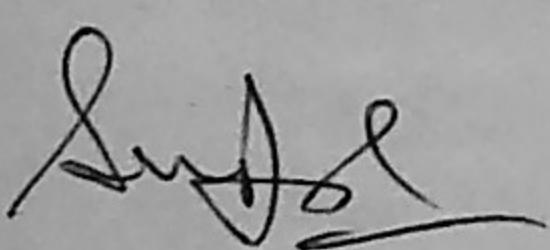
Respondents

C/R Sri N.B. Singh, Advocate.

ORDER

By Hon'ble Mr. S.K. Agarwal, Member (J.)

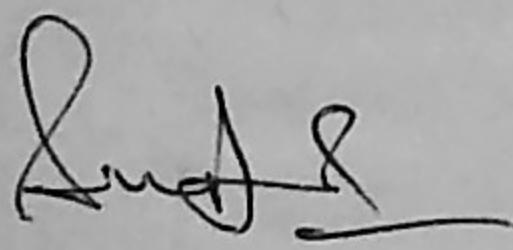
In this application under Section 19 of the
Administrative Tribunals Act 1985 prayer of the
applicant is to quash the impugned order for
recovery of house rent allowances already paid to
the applicant and to restrain the respondents not



to initiate recovery against the applicant and continued to pay house rent allowances to the applicant.

In brief facts of the case as stated by the applicant are that applicant is working as Lady Doctor and Officer Incharge Family Welfare Centre at Air Force Hospital, Kanpur since 1988. After joining she submitted application for allotment of service married accommodation on 31.5.89 but she was not allotted the accommodation but in lieu of accommodation H.R.A. was sanctioned by way of compensation. Thereafter vide letter dated 1.9.93 the applicant was asked to explain the circumstances under which H.R.A. was claimed and she submitted reply stating that she never claimed H.R.A. It is stated that without giving an opportunity respondent No.1 had issued impugned order of recovery which is arbitrary and illegal. The applicant served with noticed to respondents but no reply was given. It is also stated that the fact of residing with the husband of the applicant by the applicant was within the knowledge of respondents and H.R.A was granted in lieu of Government accommodation not allotted. She never claimed the same, therefore respondents have no right to recover the same from the applicant. It is therefore prayed that impugned order of recovery be quashed and respondents be restrained not to initiate recovery against the applicant and continued to pay H.R.A to the applicant.

Counter was filed. In the counter it is



stated that the applicant knew that she is residing with her husband in an accommodation allotted to him, even then the applicant moved an application for allotment of married accommodation. She did not disclose the fact that her husband who was also posted as Medical Officer in the same hospital and was allotted married accommodation and she was also residing with him therefore inadvertently H.R.A. was authorised to the applicant by then Commanding Officer of the Unit. It is also stated that applicant in her reply accepted the fact to reside with her husband in the accommodation allotted to him. Therefore H.R.A. was not admissible to the applicant according to rules therefore it was stopped with effect from Feb. 1993 and orders were issued to recover H.R.A already paid to the applicant. It is also stated that acceptance of H.R.A. by the applicant makes a question mark upon her integrity and loyalty being a Gazetted Officer of the Hospital.

Rejoinder and supplementary counter have also been filed which are on record.

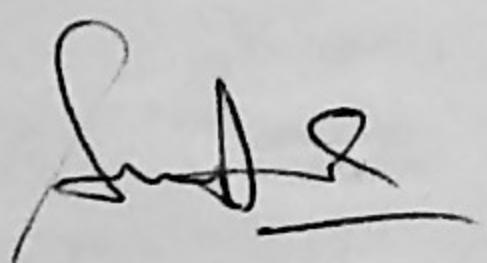
Heard the learned lawyer for the applicant and learned lawyer for respondents and also perused the whole record.

Sudhakar
Learned lawyer for the applicant has submitted that recovery of H.R.A. already paid to the applicant is arbitrary and illegal and liable to be quashed. On the other hand learned lawyer for the respondents while objecting the arguments submitted that the applicant by concealing the fact that she is residing with her husband who has been allotted married accommodation has received H.R.A. He has further argued that it was expected from the

applicant not to accept H.R.A. which was not permissible to the applicant according to rules therefore recovery made by the respondents from the applicant for H.R.A. already paid is justified.

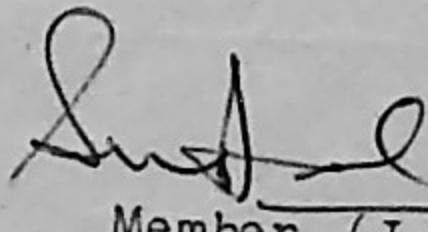
It is admitted fact that the applicant's husband is also Medical Officer posted in the same Hospital and was allotted accommodation by the respondents. It is also admitted fact that the applicant was also residing in the same accommodation. The application never disclosed the fact that she is residing with her husband in an accommodation allotted to him by the respondents. The applicant is a Gazetted Officer and appointed after the recommendation of the Union Public Service Commission as Medical Officer in the respondents hospital. She is expected to know the rules for drawing H.R.A. and she can not be permitted to plead ignorance to the rules. House Rent Allowance is allowed to a Government employee as per rules prevalent at that time for this purpose. It is not a source of income to any employee. It appears that the applicant was drawing H.R.A. by suppressing the fact that her husband was allotted hospital accommodation and she was residing with her husband. It is well known rule that when a government employee is sharing government accommodation with somebody else he is not entitled to draw H.R.A. Mere saying that the applicant was not allotted married accommodation by the respondents and H.R.A was paid to her by way of compensation in lieu of Government accommodation is not acceptable in the absence of any rule.

In the instant case it is abundantly clear that



by suppressing the fact that applicant is residing with her husband in an accommodation allotted by the respondents, the applicant was sanctioned H.R.A. and she was receiving the same. The proper course in such circumstances for the applicant was not to assert house rent allowance even if it is sanctioned for the applicant. Therefore any recovery made for house rent allowance already paid is neither arbitrary nor against the principles of natural justice. Therefore applicant has no case and this Original application is liable to be dismissed.

I, therefore dismiss this O.A. No order as to costs.


Member (J.) 8/12/98