

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

ORIGINAL APPLICATION NUMBER 988 OF 2002

ALLAHABAD, THIS THE 31st DAY OF may 2004

HON'BLE MRS. MEERA CHHIBBER, J.M.

Hem Raj s/o Shri Chhotey Lal
r/o 141/1 Chak Niratul Chauphataka,
Allahabad.

.....Applicant

(By Advocate : U.K. Srivastava)

V E R S U S

1. Union of India through Secretary,
Ministry of Defence, New Delhi.
2. Manager/Offier Incharge, Military Farm,
Kanpur.
3. Farm Officer/Officer Incharge, Military Farm,
Allahabad.
4. Commandant O.D. Fort, Allahabad.
5. L.A.O. (A) Area Accountant New Cantt.
Allahabad.

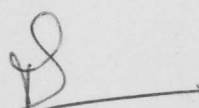
.....Respondents

(By Advocate : Shri V.K. Pandey)

O R D E R

By this O.A. applicant has sought the following
relief(s):-

- (i) That this Hon'ble Tribunal may graciously be
pleased to quash the letter/order dated 07.03.02
and last pay certificate dated 29.07.2002 issued
by the respondent No.3 and letter/order dated
20.03.2002 issued by respondent No.2
- (ii) That this Hon'ble Tribunal may further be pleased
to direct the respondents not to recover the
amount of tune of Rs.11,575/- already paid to
him as House Ren Allowance, from the applicant.



- (iii) That this Hon'ble Tribunal may be pleased to direct the respondents to pay Rs.2500/- to the applicant which has already been recovered from which is on account of Bonus and Dearness allowance for the year 2000-2001.
- (iv) That Hon'ble Tribunal may further be pleased to direct the respondents to pay the house rent allowance and Transportation Allowance payable to the applicant at Military Farm Kanpur!!

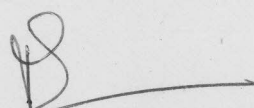
2. It is submitted by the applicant that he was posted as Farm Hand at Military Farm Kanpur w.e.f. 01.01.1996 and made number of representations to the respondent No.2 to allot him a Government Quarter (Pg.15 to 20). Thereafter on 01.12.1998 applicant was transferred from Kanpur to Allahabad. It is also submitted by the applicant that on the posting at Military Farm Kanpur, applicant had neither been paid the house rent nor any government accommodation was given to him but he was given the H.R.A. at Allahabad. On 18.07.2001, applicant was transferred to Ordinance Depot Fort Allahabad. In the meantime vide letter dated 13.10.2001 respondent No.3 was directed to ask the applicant to vacate the Government Accommodation (Pg.21). This letter was written by Offg. O.I.C.M.F. Kanpur to the Officer Incharge, Military Farm at Allahabad. By a subsequent letter dated 19.10.2001 Officer Incharge, Military Farm Allahabad wrote to the Commandant OD Fort, Allahabad that Shri Hem Raj has retained Government accommodation at Military Farm Kanpur till date where he was earlier posted and inspite of advice to the said individual to vacate the Govt. accommodation, he has not vacated the said accommodation and since he had drawn HRA at Military Farm Allahabad also inspite of having Govt. accommodation at Kanpur. The H.R.A. drawn by him at Military Farm, Allahabad is required to be recovered from his pay and allowances. The details were stated therein and



total amount came to Rs.13,075/- only . Accordingly, it was requested that Shri Hem Raj may be advised to vacate the Govt. accommodation of Military Farm, Kanpur immediately and to recover the amount of Rs.13,075/- from him and to remit the same to the Military Farm, Allahabad so that excess payment on account of HRA could be adjusted. The recovery was ^{to be made by} from December 1998 to 18 days in July 2001 (Pg.22). Thereafter another letter was issued on 02.11.2001 by the Military Farm Kanpur addressed to the Commandant O.D. Fort Allahabad once again requesting the authorities to ask Shri Hem Raj to vacate accommodation immediately otherwise 3 times market rent will be recovered from him or the same will be vacated through unit board of officers CMP/Civil Police. They were further requested to recover the amount of Rs.4550 from his pay and allowances in the shape of water and electricity charges as per the details given there under (Pg.24).

3. It is submitted by the applicant that he gave representation dated 22.11.2001 (Pg.25) stating therein that he had never been allotted Govt. Quarter nor he was given HRA, therefore, how can he be made to vacate the Govt. Quarter when it had not even been allotted to him. Pursuant to this representation, Officer Incharge, Military Farm Kanpur wrote another letter dated 10.12.2001 to the Commandant O.D. Fort, Allahabad whereby the letter dated 02.11.2001 was cancelled and it was further intimated that no amount is due to be recovered from Shri Hem Raj from his pay and allowances (Pg.26).

4. To ^{the B}utter surprise of applicant, ^{once B} they have cancelled



the earlier letter. It was not open to the respondents ^{to} take up the same issue ^{again. B}. They once again wrote another letter on 24.12.2001 to the Military Farm, Allahabad with reference to the letter dated 13.10.2001 by requesting them to read temporary hut in place of Government accommodation. They were further informed that Shri Hem Raj has vacated the temporary hut at this farm. Applicant once again represented Ordinance Depot Fort, Allahabad wrote to Military Farm Allahabad that since applicant was not given any accommodation and ~~no~~ over payment on account of HRA has been paid to the individual, therefore, it was requested that sum of Rs.2500/- on account of bonus 2000-2001 and D.A. Arrears for July 2001 adjusted at ~~year~~ ^{their} end on account of excess payment of HRA may please be reclaimed at ~~year~~ ^{their B} end and the amount be remitted to this depot for arranging the payment to the individual Shri Hem raj. There was another reminder given to O D Fort Allahabad on 20.02.2002 ^{from} ~~to~~ the Military Farm Kanpur stating therein that since the employee was not allotted any Govt. accommodation and he was entitled to HRA and other allowances, which was not paid by them. It may be looked into on priority basis and that dues may be remitted to this depot for arranging early payment.

5. It is submitted by the applicant that these letters clearly show that nothing was required to be paid by the applicant but yet another letter was issued by the Military Farm Allahabad on 07.03.2002 addressed to the Commandant O D Fort, Allahabad wherein it was clarified that applicant was occupying temporary hut at Kanpur and as per Govt. Orders, a government servant is not entitled for HRA even when he lives on ~~special~~ ^{sub B} standard accommodation or temporary hut in the government land. It was, thus, stated that



their stand regarding over payment of HRA to the above individual is correct. Therefore, OD commandant Allahabad was once again requested to recover the balance of Rs.11,575/- from the above name individual and to remit the same to the Military Farm, Allahabad. Subsequently another letter was written by Military Farm, Kanpur on 20.03.2002 to the commandant OD Fort, Allahabad (Pg.12) whereby it was clarified that Shri Hem Raj was not allotted any Govt. accommodation by the Farm but he was residing at a temporary hut built for Chowkidar on Military Farm Land which is a Govt. Land. Therefore, no HRA etc. is admissible to the above named individual as per Govt. orders. Even though, he was living in sub standard accommodation or temporary hut on the government land.

6. Applicant has challenged these two letters on the ground that he was never allotted any government accommodation therefore, neither respondents could have asked him to pay back the HRA received by him at OD Fort Allahabad or Military Farm, Allahabad. Applicant has, thus, prayed that the O.A. may be allowed.

7. Respondents on the other hand have opposed this O.A. on the ground that since applicant was wrongly paid HRA while applicant was living in temporary hut, therefore, in accordance with government orders, he was not entitled to HRA, therefore, the order dated 07.03.2002 has correctly been passed. They have explained that prior to his permanent appointment he was doing the duty of Chowkidar and was residing in Chaukidar hut at Military Farm Kanpur. To substantiate their averments, they have annexed the CGHS Card of applicant wherein his address ~~is~~ is shown at Military Farm Kanpur (Annexure CA-I). They have also annexed



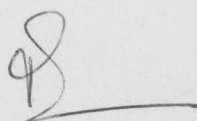
a photostate copy of the complaint from other Military Farm employees protesting his drawing HRA, which is self-explanatory that applicant was indeed in occupation of temporary hut in Government Land (Annexure CA-II). They have further submitted that applicant had a history of theft for which he was terminated from service and he had even accepted having committed the theft (Annexure CA-3). He had challenged the termination in the Tribunal but even that was rejected. He was not paid HRA at Military Farm Kanpur as he was living in Government Hut and was using electricity and water also of the Military Farm. Therefore, the question ^{to B} ~~as~~ pay him the transport allowances or HRA does not arise. They have stated that applicant is infact cheating the Govt. accordingly, he was rightly asked to return back the HRA claimed by him at Allahabad. They have further explained that applicant personally met the officer Incharge, Military Farm, Kanpur and requested ^{him B} ~~that~~ he is going to deposit the aforesaid amount due from him and would be vacating the accommodation also, therefore, he requested to stop the recovery of his HRA at O.D. Fort Allahabad. The Officer Incharge considering that applicant is low paid employee and believing his words ~~the~~ withdrew ~~the~~ order but applicant refused to either pay the charges or vacat~~ing~~ the accommodation and cheated the Officer Incharge as well. However, subsequently, he vacated the hut but without paying the due charges, therefore, letter dated 24.12.2001 was rightly issued. They, have, thus submitted that order for recovery of Rs.11,575/- is in accordance with rules and it calls for no interference.

8. I had directed the respondents to place on record the Govt. order under which HRA was not to be paid even if a person was occupying temporary accommodation on the Govt. Land. Respondents placed ^{letter B} on record the ~~order~~ dated 04.11.2003

wherein it was clarified that in accordance with Para 4(B)(ii) of Govt. of India, Ministry of Finance (Dept. of Expenditure) OM No.F-2(37)-E-118/64 dated 27.11.1965 reproduced in Ministry of Defence O.M. Dated 04.03.1966 reproduced in Appendix 'A' to Army Order No.436 of 1966, the house rent allowance shall not be admissible to those Govt. servants who are in occupation of Govt. accommodation. Even such Govt. Servants who are residing in BASHAS (Hutted accommodation) are also not entitled to HRA.

9. The records produced by the respondents show clearly that applicant was indeed living in Kanpur Military Farm as he had himself given the address in the CGHS Card, which are duly signed by him and even otherwise as many as 20 persons had given a complaint to the authorities with regard to Shri Hem Raj living in Chowkidar Hut using electricity and other facilities and yet he had applied for HRA, all those persons had stated that either electricity and water charges should be deducted from Shri Hem Raj's salary and they should also be allowed the same benefit.

10. It is, thus, clear that applicant was indeed living in Chowkidar Hut at Kanpur Military Farm, therefore, naturally he would not be entitled to HRA till he occupied the said accommodation. Of course, from the date he vacated the said Chowkidar Hut, applicant would be entitled to the HRA but earlier since he was paid the HRA by Allahabad while he was still occupying the temporary hut at Kanpur, naturally he would be liable to pay HRA, which he had been paid wrongly. He would also ^{be} liable ~~to be~~ ^{pay} the electricity and other charges for occupying the Hut at Kanpur as it was made on the Govt. Land. Therefore, no interference is called for in the present case.



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11. The O.A. is accordingly dismissed with no order as to costs.



Member (J)

shukla/-