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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH
JODHPUR

Date of order : 18.5.1998.

O.A.NO. 80/1996.

P.N.Kakkar S/o Shri H.S.Kakkar, Education Officer, W.E.C.Q.
(Workers Education Centre), 21 Deo Nagar, Jodhpur.

..... Applicant.

Versus

1. Director, Central Board of Workers Education, 1400-West High Court Road, Nagpur (Maharashtra).
2. Regional Director, Workers Education Centre, C Block, Bhuli Dhanbad (Bihar).
3. General Manager, Bharat Coking Coal Limited, Block A, Bhuli Township, Dhanbad (Bihar).
4. Regional Director, W.E.C. (Workers Education Centre), 21, Devnagar, Jodhpur.

..... Respondents.

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Present :

Mr. S.N.Bohra, counsel for the applicant.

Mr. Vineet Mathur, counsel for the respondents.

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CORAM :

HONOURABLE MR. A.K.MISRA, JUDICIAL MEMBER

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BY THE COURT :

The applicant has filed this O.A. with the prayer that the respondents No. 1 and 2 be directed to pay a sum of rupees 5100/- being the amount of House Rent Allowance for the period from 1.1.1990 to 30.9.1991 alongwith interest @ 24% p.a.

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2. Notice of this O.A. was given to the respondents. Respondents No. 1, 2 and 4 have filed their reply whereas respondent No. 3 had not filed any reply.

3. I have heard the learned counsel for the parties and gone through the record.

4. The brief facts of the case are as follows.

5. The applicant, who was posted as Education Officer, in the Workers Education Centre (for short "W.E.C."), Jodhpur, at the time of filing of this O.A., has alleged that he is an employee of the Central Board of Workers Education (for short "C.B.W.E."). The Board is governed by the Ministry of Labour and Employment and ^{the employees} have all India transfer liability. In June 1988, the applicant was transferred from W.E.C., Faridabad to W.E.C., Bhuli, Dhanbad (Bihar), under the respondent No. 2 where he resided in a residential accommodation bearing C-388 licensed to one Shri M.A. Ansari, the then Education Officer, Bhuli, by its owner M/s Bharat Coking Coal Limited (for short "B.C.C.L."), respondent No. 3. It is alleged by the applicant that this quarter was neither requisitioned by the W.E.C., Bhuli, nor was allotted to the applicant by respondent No. 2, nor the accommodation was licensed to respondent No. 2 by the B.C.C.L.. It is also alleged by the applicant that the said quarter is not a pooled accommodation. The allotting authority of the quarter is B.C.C.L. The quarter was originally allotted to Shri M.A. Ansari and on his transfer from Bhuli, the quarter was occupied by one Shri Jilani and thereafter by one Shri J.S. Pandey, from whom the applicant took possession of the quarter. It is alleged that applicant has deposited with the B.C.C.L. rent relating to the quarter @ 25/- per month up to February'91.

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Thereafter, rent up to September '91 was deducted from the salary of the applicant. But, the amount deposited by the applicant and the amount deducted from his salary as rent, has not been adjusted by the B.C.C.L. on the plea that the said accommodation was not allotted to the applicant and it is alleged that Shri M.A.Ansari had not handed over the vacant possession of the quarter to the B.C.C.L. It is further alleged by the applicant that respondent No. 2 had informed the applicant that he is not entitled to House Rent Allowance w.e.f. 1.1.'90, as per the directions received from the Headquarters. Applicant had made representations in the matter on the ground that he was not allotted any residential accommodation by the respondent No. 2, therefore, he is entitled to House Rent Allowance as per the rules applicable. It is alleged by the applicant that he repeatedly represented the matter regarding refusal to pay House Rent Allowance as its deduction from the salary of the applicant was also illegal. Therefore, the applicant is entitled for Rs. 5,100/- as House Rent Allowance which was illegally and arbitrarily deducted by the respondents.

6. The respondents No. 1,2 and 4 have alleged in the reply that the O.A. is time barred. The Tribunal at Jodhpur had no jurisdiction to entertain the application of the applicant because the cause of action arose to the applicant at Dhanbad, Bihar. The applicant cannot claim redressal of his grievance which arose to him during his posting at Bihar, at Jodhpur by filing the instant O.A. The respondents have admitted that the C.B.W.E. is a registered society and is an autonomous body which receives 100% Grant for its administration and educational activities from Government of India and is, therefore, for all practical purposes, a department of Government of India. The Rules applicable to Central Government employees are equally applicable to the employees of the Board as the same have been adopted by and made

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applicable to the Board. It is alleged by the answering respondents that as per the rules, the House Rent Allowance cannot be paid to such employees who have been provided with Government owned/hired accommodation. The applicant was occupying quarter No. C-388 during his posting at Bhuli in Dhanbad belonging to B.C.C.L. but the same was not officially allotted to him. The applicant was refused House Rent Allowance because he was enjoying residential accommodation at Bhuli. It is further alleged by the respondents that only official formalities of allotting the quarter to the applicant were not done but nevertheless the applicant was provided with an accommodation. Therefore, he is not entitled to claim House Rent Allowance at the same time enjoying the Government accommodation. The respondents have prayed that the O.A. be dismissed.

7. Both the learned counsel for the parties elaborated their arguments on the lines of respective pleas which were considered by me. The case of the applicant cannot be said to be beyond limitation in view of the order passed by this Tribunal dated 12.9.1995 whereby the applicant was permitted to withdraw the O.A. and was given liberty to file a fresh O.A. The present O.A. has been filed on 29.09.1995. The earlier O.A. was filed by the applicant in the year 1993 against the communication dated 8.11.1993 which was withdrawn by the applicant on 12.9.1995. Therefore, the argument of the learned counsel for the respondents relating to the O.A. being time barred deserves to be rejected.

8. No doubt, the cause of action arose to the applicant while he was posted at Bhuli, Bihar but soon thereafter he was posted at ^{also} Jodhpur. As per the rules, an employee can file an O.A. at the place of his posting, therefore, the applicant was well within his rights to file the present application for redressal of his grievance relating to his posting at Bhuli, Bihar in the matter relating to

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service benefits. Therefore, the contention of the learned counsel for the respondents relating to jurisdiction deserves to be rejected.

9. The respondents have admitted the position that the rules applicable to the central government employees are equally applicable to the employees of the C.B.W.E. Therefore, in the instant case the rules governing the matter of House Rent Allowance to the Central Government employees will also cover the case of the applicant.

10. As per the rules relating to House Rent Allowance an employee is entitled to House Rent Allowance as per his entitlement and as per his posting, if he has not been provided with an accommodation belonging to the Government. In the instant case, the applicant had occupied a quarter belonging to B.C.C.L. while he was discharging his duties as an Education Officer in the W.E.C., Bhuli, Dhanbad. The accommodation which the applicant was occupying was originally allotted to Shri M.A. Ansari but this is not clear whether such quarter was allotted to Shri Ansari by the W.E.C. or was allotted by the B.C.C.L. But from the letter Annex.A/19 written by the Regional Director W.E.C., Bhuli to the Director, C.B.W.E., it is clear that the quarter in question was never requisitioned by the Regional Director for being allotted to the staff. Therefore, the resultant conclusion is that B.C.C.L. was the owner and the allotting authority of the quarter. There is also nothing on record to show that B.C.C.L. had handed over the quarter in question to the W.E.C., Bhuli, for making the same available to the education workers. Therefore, it cannot be said that the accommodation in which Mr. Kakkar was living was an official accommodation provided by the respondent No. 2. When an accommodation is not provided by the Government to its employee, then naturally the employee has to make arrangements about his residence at his own level. In these circumstances, if the applicant has occupied the quarter in question belonging to the B.C.C.L. then it

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cannot be said that the W.E.C., Bhuli, had provided that accommodation to him. Therefore, the applicant becomes entitled to House Rent Allowance as per rules applicable to the applicant and as per his entitlement. In the instant case, it is alleged that the accommodation was allotted to one Shri M.A.Ansari, who was transferred way back in the year 1977, thereafter, two of his successors had also occupied the same accommodation. When the applicant was posted, he took over the possession of the disputed quarter from Shri A.S.Pandey. None of the respondents have put anything on record to show as to how the matter relating to recovery of House Rent Allowance from various occupants as per rules was regulated in the past. Therefore, in the case in hand, the respondents cannot be heard to say that the accommodation was provided by the employer. It is alleged by the respondents that officially, allotment of the quarter to the applicant was not done by the B.C.C.L. ^{in my opinion} Therefore, the matter relating to unauthorised occupation of the quarter belonging to the B.C.C.L. is a matter between Shri M.A.Ansari and the applicant on the one hand and the B.C.C.L. on the other hand. If the accommodation in question was given on lease to the official respondents by the B.C.C.L. then there should not ^{have been} any occasion for ^{the} applicant to deposit house rent with the B.C.C.L. and at the same time there was no occasion for the B.C.C.L. not to adjust the amount so deposited by the applicant. The respondents cannot blow hot and cold at the same time. They admitted having not provided the official accommodation to the applicant as per rules. At the same time, they says that House Rent Allowance is not admissible to the applicant as he was occupying residential ~~acco~~ ^{dati} at Bhuli. This is an anomalous position. The Rules relating to grant of House Rent Allowance specifically say that the employee who has not been provided with official accommodation, shall be entitled to House Rent Allowance. When the respondents had not provided any accommodation to the applicant, it

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cannot be said that they were entitled to realise house rent from the applicant or were entitled to refuse house rent allowance to the applicant.

11. If the quarter in question was originally placed at the disposal of respondent No. 2 either on lease or licensed by the B.C.C.L. or its predecessor organisation then it would have been the look out of respondent No. 2 to allot the quarter to the applicant and realise rent from him and in its own turn, respondent No. 2 could have deposit lease money or license fee to respondent No. 3. But there is nothing on record to arrive at this conclusion. On the contrary, from the copy of letter Annex. A/10 dated 24.10.1991, it appears that respondent No. 3 through its Deputy Personnel Manager had informed the applicant that "the rent deposited by him has not been adjusted as the quarter is in the name of Shri M.A.Ansari and the total dues have also not been cleared. If the amount due is cleared we can consider allotment of the said quarter in your name and that too when it is recommended by your controlling officer".

This clearly shows that quarter No. C-388 was never placed at the disposal of respondent No. 2 for being further allotted to its employees. On the contrary, the quarter in question was being allotted to various persons on the recommendations of respondent No. by the B.C.C.L.

2. In the instant case, the said quarter was originally allotted to Shri M.A.Ansari. At the time of his transfer, It appears that Shri Ansari did not hand over the vacant possession of the quarter to its owner i.e. B.C.C.L., therefore, on the record of B.C.C.L. Shri Ansari continues to be its occupant. For this reason, respondent No. 3 had informed the applicant that if the old dues relating to the time of Shri Ansari are cleared and recommendation of the controlling officer is received then the quarter could be allotted to the applicant. This again shows that the quarter in question was neither in control of respondent No. 2 nor was provided by

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respondent No. 2 to the applicant. Therefore, in my opinion, respondent No. 2 was neither entitled to deduct house rent from the salary of the applicant nor was entitled to refuse House Rent Allowance to the applicant.

12. From the letter Annex.R/1 dated 2.8.1993, which was written by Shri M.A.Ansari to the Director, C.B.W.E., Nagpur, it appears that when Shri Ansari was transferred from Dhanbad he handed over the keys of the quarter to Shri S.N.Srivastava, the then, Regional Director, under intimation to the concerned officer of Coal Mines Welfare Organisation who was probably the predecessor of B.C.C.L. He has also mentioned in his letter that he had never handed over the possession of the quarter to Shri Kakkar (applicant) because many Education Officers in the meantime have been living in the said quarter. This also goes to show that atleast the respondent No. 2 was not the allotting authority of the said quarter. Had it been ~~so~~ the successors of Shri M.A.Ansari would have been allotted the quarter one after the another and the record of B.C.C.L. would have been corrected accordingly. This is another matter whether Shri Kakkar (applicant) is liable to pay rent to the B.C.C.L. as an unauthorised occupant of the quarter or as an allottee of the quarter. But so long the quarter is not provided by the respondent No. 2, the applicant cannot be deprived of the House Rent Allowance for which he is otherwise entitled as per rules. How, B.C.C.L. will deal-in or dispose of the matter relating to the occupation of the disputed quarter by Shri Kakkar, is left open for B.C.C.L. to decide. Mr. Kakkar is said to have deposited the amount of house rent with the B.C.C.L. which as per the allegations of the applicant is lying in suspense account and unadjusted by the B.C.C.L. But, nevertheless the applicant has paid rent for the quarter. When an employee spends some money as rent for occupation of some accommodation then for purposes of grant of House Rent Allowance he

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becomes entitled to the same as per rules. Therefore, in the present case, the applicant is entitled for House Rent Allowance as per his entitlement. The applicant has claimed Rs. 5100/- to be paid from respondents No. 1 and 2 as House Rent Allowance, the correctness of which has not been challenged by the respondents. Therefore, the applicant is entitled to get the amount of Rs. 5100/- from respondents No. 1 and 2 but in the circumstances, the applicant is not entitled to interest on the said amount. The O.A. deserves to be accepted accordingly. The applicant has not claimed any relief as against the B.C.C.L. (Respondent No.3), therefore, the rights and liabilities of the respondent No. 3 are not required to be determined in this O.A. While discussing the arguments in the foregoing paras any observation made by me shall not adversely affect the rights of the B.C.C.L. in respect of the matter in controversy.

13. In the result, the O.A. is accepted and the letter dated 12.1.1990 (Annex.A/1), is hereby quashed so far as it relates to refusal to Pay House Rent Allowance to the applicant w.e.f. 1.1.1990. The respondents No. 1, 2 and 4 are hereby directed to pay/refund to the applicant a sum of Rs. 5,100/- of House Rent Allowance for the period begining from 1.1.1990 to 30.9.1991 but in the circumstances without interest.

14. Parties are left to bear their own costs.

(A.K.MISRA)
Judicial Member