

**CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH, JODHPUR**

Original Application No.290/00479/2015

Reserved on 19.10.2016

Jodhpur, this the 21⁸⁷ day of October, 2016

CORAM:

Hon'ble Ms. Praveen Mahajan, Administrative Member

Nanu Ram Jangid s/o Late Shri Jaisa Ram by caste Jangid, aged about 62 years, resident of Village Kusumbhi Alipur, Teh-Ladnu, District Nagaur (Raj). Lastly posted as Sub Postmaster, Ladnu, District-Nagaur (Raj).

.....Applicant

By Advocate: Ms. Monika Tak

Versus

1. Union of India through the Secretary, Ministry of Communication, Deptt. of Posts, Dak Bhawan, New Delhi.
2. The Postmaster General, Western Region, Jodhpur (Rajasthan).
3. The Superintendent of Posts, Nagaur (Rajasthan).
4. The Chief Post Master General, Rajasthan Circle, Jaipur (Raj.)

.....Respondents

By Advocate : Mr. K.S.Yadav

ORDER

The applicant has approached this Tribunal with the prayer that the respondents may kindly be directed to make payment of House Rent Allowance (HRA) to the applicant for the period 19.01.2012 to 31.05.2013 amounting to Rs. 38,490/- alongwith

interest @ 12% p.a. from the day, the same became due till the date of actual payment.

2. Brief facts of the case are that the applicant was posted as Sub Postmaster, Ladnu between the period 19.01.2012 to 31.05.2013. He was allotted a post attached rent free quarter. The applicant states that the said Government accommodation was in a dilapidated condition, hence after joining duties, he made application dated 17.05.2012 submitting that the accommodation allotted to him is in an extremely deteriorated condition and if the applicant stays in the accommodation, there is every possibility of an accident. In the application, he stated that respondent No.3 during the visit at Ladnu, had inspected the said house, and also taken photographs showing the condition of the Government quarter. So much so, even the overhead water tank had been removed, the plumber fittings had already been destroyed and water connection was also not available. The plaster of the accommodation was in such a delicate condition, that the same could fall, even with the touch of a hand. He, therefore, requested that the said accommodation may be declared unsuitable/uninhabitable residence. Copy of the application dated 17.5.2012 is placed at Ann.A/1. The applicant submits that way back in 2007, vide letter dated 12.2.2007 (Ann.A/2) the condition of the house had been narrated to the Assistant

Engineer (Civil) working under respondent No.2 by Superintendent of Post Office, Nagaur. Even at that time, it was recorded that seeing the condition of the roof - the engineers/artisans had refused to even undertake repairs - fearing that the same may fall any time. It was mentioned that there was possibility of the roof falling during the repair itself.

Acting upon the letter dated 17.5.2012, respondent No.3 informed the applicant, vide letter dated 2.7.2012 (Ann.A/3) that his request has been acceded to and being sent to respondent No.2 for declaring the said quarter as uninhabitable.

In view of the dilapidated condition of the earmarked house, the applicant had no option, but to live in a rented accommodation. Since, he did not reside in the Government accommodation made available to him, hence, he is fully entitled to get payment of HRA as per rules, but the same has not been paid to him by the respondents. Aggrieved against non-payment of HRA, the applicant filed a representation dated 16.4.2013 reiterating the earlier submissions and asking for giving payment of HRA to which he was entitled (Ann.A/4).

The applicant superannuated from service on 31.05.2013 without having received any HRA. Accordingly, the applicant is due to get HRA at the prescribed rates along with interest. This amount works out to Rs. 38,490/-. The applicant served legal

notice dated 15.09.2014 (Ann.A/5) on the respondents through his counsel, but to no avail. Being aggrieved by non-payment of HRA for the period from 19.1.2012 to 31.05.2013, the applicant has preferred this OA.

3. The respondents in their reply have stated that as per instructions, the applicant was allotted the post attached accommodation and it was mandatory for him to stay there. In cases, where rent free accommodation is available, no HRA can be drawn in favour of the employee, even if, he is unable to occupy the same. Therefore, the applicant is not entitled for HRA for the period mentioned and, therefore, the legal notice given for this purpose is of no consequence. In this regard guidelines/instructions issued vide letter dated 6.5.2003 issued by the Assistant Director General (Buildings) to all Head of Postal Circles (Ann.R/1) regarding Postal pool quarters and post attached rent free quarters of PMs/SPMs has been referred. The respondents also submit that if the quarter was not worth living, then the applicant ought to have made a request to repair the same before allotment. Had such a request been made, it could have been considered by the respondent department. The applicant occupied the quarter and filed the application dated 17.5.2012 after 4 months of allotment. Hence, he is not entitled for HRA as claimed by him. They have further submitted that

respondent No.4 i.e. Chief Postmaster General is the competent authority in the matter of de-quarterisation or granting HRA wherever post attached quarter is not worth living. The request of the applicant was forwarded to respondent No.4 for further necessary action vide letter dated 6.9.2013, but the same could not be considered and hence the applicant is not entitled for HRA.

4. Heard both the counsels and perused the record.

5. The learned counsel for the applicant Ms. Monika Tak, reiterated the submissions already made in the OA. Drawing attention of the Bench to letter dated 17.5.2012 (Ann.A/1), she submitted that in this letter, it was specifically mentioned that there were no amenities available in the said post attached house. So much so, that there was no water connection available. A specific request was made therein to declare the quarter as uninhabitable due to its state of disrepair. It was also mentioned in the letter that inspection has already been conducted by the Superintendent of Post Office, Nagaur of the residential premises and photographs of the removed overhead water tank/fittings were taken as early as in 2007. As a follow up, the Superintendent of Post Offices, Nagaur had taken up the matter with the Assistant Engineer for repair of the said residence. The letter dated 12.2.2007 (Ann.A/2) refers to the earlier correspondence regarding repair of kitchen roof of the said earmarked quarter.

Further, this letter addressed to the Assistant Engineer (Civil) in the office of PMG, categorically mentioned that there is likelihood of a serious accident happening due to the deteriorating condition of the house. The learned counsel submitted that in view of these circumstances, it was absolutely impossible for the applicant to stay in the house, which was on the verge of collapsing at the time of repair itself. He was, therefore, left with no option but to live in a rented private accommodation. His request for declaring the earmarked house as uninhabitable was also accepted by the respondents, clearly affirming his stand. Therefore, he is entitled to HRA for the period mentioned in the OA.

6. The learned counsel for the respondents Shri K.S.Yadav submitted that as per instructions on the subject, it was mandatory for the applicant to stay in the post attached rent free accommodation. The relief claimed by the applicant is contrary to rules and cannot be granted. He emphasised that if the quarter was not worth living, the applicant ought to have made a request for repair of the same before allotment and before occupying the house. Though the request of the applicant was forwarded to the competent authority, but the same was not considered. Hence, as per rules on the subject, no HRA can be drawn in favour of an employee even if he is unable to occupy the post attached accommodation.

7. On going through the facts of the case, it appears that the respondents have not been fair in their assessment of the case – due to which the applicant had to live in a rented accommodation. It is an admitted fact that the Govt. accommodation allotted to the applicant was in a state of disrepair and was in a dilapidated condition. This fact was brought to the notice of the respondents by the applicant on 17.5.2012. The internal correspondence shows that the respondents themselves had taken up the matter with the concerned Civil Engineer for repairing the house way back in 2007. The facts stated in letter dated 12.2.2007 (Ann.A/2) and mentioned in the OA, as well as in the oral submissions during the hearing, need no elaboration. Apparently, the issue remained un-attended for a long time and the said accommodation was mechanically allotted to the applicant in 2013 (Given the factual condition of the house, described in letter of 12.2.2007, this was a serious lapse on part of the respondents- the house should have been suo-moto declared uninhabitable by the respondents). Though it took 4 months for the applicant to represent and bring these facts to the notice of the respondents, in writing, but the fact remains that even before this, it could not have been possible for him to stay in the house, where admittedly, there was no overhead water tank, water connection etc. or where the kitchen roof was reportedly in an extremely frail condition. It was not for the employee, who was only a Sub Postmaster, to get the house

repaired. This duty lay with the senior functionaries of the Department and those incharge of maintenance of buildings/houses. The house should have been declared uninhabitable by the respondents when, the disrepair was clearly visible. It was certainly not prudent for anyone to stay in a quarter whose condition was so pathetic. In my view, it was unfair, to even allot such a quarter to anyone – when the department was very much aware of the status of the house, putting at risk the lives of officials to whom the house was allotted.

8. I, therefore, feel that the applicant was absolutely justified in taking up the private accommodation. However, since he took possession of the house and brought this fact to the notice of the respondents 4 months after allotment – he is entitled to HRA only from the date he brought the condition of the house to the notice of the respondents. The respondents are accordingly directed to grant HRA to the applicant, as admissible, w.e.f.17.5.2012 till 31.05.2013. This exercise may be completed within a period of 3 months from the date of receipt of a copy of this order.

9. The OA stands disposed of as above with no order as to costs.


(PRAVEEN MAHAJAN)
Administrative Member

R/

R/C
25/10/16

R/C
Monika Tale
25/10/16