

CENTRAL ADMINISTRATIVE TRIBUNAL

CALCUTTA BENCH

- 1. O.A. No. 1123 of 1997,
- 2. O.A. No. 1124 of 1997,
- 3. O.A. No. 1125 of 1997,
- 4. O.A. No. 1126 of 1997,
- 5. O.A. No. 1127 of 1997,
- 6. O.A. No. 1128 of 1997,
- 7. O.A. No. 1129 of 1997,
- 8. O.A. No. 1130 of 1997.

Present : HON'BLE DR. B.C. SARMA, ADMINISTRATIVE MEMBER.

HON'BLE MR. D. PURKAYASTHA, JUDICIAL MEMBER.

S/Sri

- 1. Anuj Kr. De,
S/o- Lt, J.L. De.
- 2. Sushanta Dey
S/o- Sri Sukhamoy Dey,
- 3. Tonmay Dumar Das,
S/o- Sri Ramani Ranjan Das,
- 4. Nihar Kanti Joardder,
S/o- Lt, Nirendra Nath Joardder,
- 5. Sibapada Majumdar,
S/o- Lt, Makhanlal Majumdar.
- 6. Pravas Kumar Sarkar,
S/o- Sri Promatha Nath Sarkar.
- 7. Basudev Bose,
S/o- Sri Gouri Shankar Bose.
- 8. Subrata Kumar Doloi,
S/o- Lt, Haripada Doloi.

- All the applicants are working for gain
as Dy. Field Officer/Field Officer (Tele),
Special Bureau, Govt. of India,
PO. Mohanpur, Nadia, Hathiakanda,
Dist- Nadia.

... Applicants.

Vrs.

- 1. Union of India,
service through the Secretary,
Cabinet Secretariat,
Govt. of India,
Bikaner House (Annexe),
Room No. 7, Sahajan Road,
New Delhi-11.
- 2. Lt. Secretary (Pers), Cabinet
Secretariat, Govt. of India,
Bikaner House (Annexe), Room No. 7,
New Delhi-11.
- 3. Commissioner, Special Bureau,
Govt. of India,
48A, Syed Amir Ali Avenue,
Calcutta-11.

4. Addl. Commissioner,
Special Bureau, Govt. of India,
48A, Syed Amir Ali Avenue, Cal-19.

5. Dy. Commissioner (Tele),
Special Bureau, Govt. of India,
Hathikanda,
Mohanpur PO, Dist- Nadia, & 741246.

... Respondents.

For applicants : Mr. Samir Ghosh, Counsel.

For respondents : Mrs. Kanika Banerjee, Counsel.

Heard on : 5.2.1998 and
6.2.1998.

Ordered on : 6.2.1998.

O R D E R

B.C.Sarma, A.M.

1. The dispute raised in these batch of petitions is about non-extension of benefit of the Judgement passed in the O.A. No. 1131 of 1994 on 23.12.1994 and also non-payment of House Rent Allowance and Compensatory City Allowance, (hereinafter referred to as HRA and CCA) at par with Calcutta rate for the employees working at Hathikanda. All these applications were taken up together for hearing since they involve common question of law and fact. Briefly stated the facts of these cases are as follows :-

All the applicants are Field employees in the Special Bureau under the Cabinet Secretariat of Govt. of India and they are posted at Hathikanda where they are also residing. The applicants submit that Hathikanda is within the territory of Calcutta Urban Agglomeration as defined in the Schedule of the Urban Land (Ceiling & Regulation) Act, 1976 (hereinafter referred to as "ULCR Act") It is also their contention that other Govt. employees, who are living out of Calcutta Urban Agglomeration as defined in the ULCR

but for some unknown reasons, the respondents have denied them the benefit. They have, therefore, prayed that the benefit of the Judgement given by the Tribunal in OA 1131 of 1994 should be extended to them.

2. The cases have been opposed by the respondents by filing separate replies in all the cases. The stand taken by the respondents has been that - as per intimation received from the office of the Registrar, General of Census of India, Hathikandla is not a part of Calcutta Urban Agglomeration, therefore, the HRA and CCA as claimed by the applicants, is not admissible. The respondents in their reply have also annexed a copy of a letter of Ministry of Finance UO No. 1282/ELLB/93 dated 5.1.1994, as annexure 'R-1', which we have perused. The respondents further aver that there are specific rules regarding grant of H.R.A and C.C.A to the employees residing outside the city limits of the qualified city and such benefit is applicable to the employees posted only within 8(eight) Kilometers periphery of the Municipal limits of the qualified city. Since Hathikandla is neither, according to the respondents, is included within the jurisdiction of Calcutta Urban Agglomeration nor even within the distance of 8 Kms. from the periphery of Calcutta Municipal Corporation, the instant applicants cannot get the benefit.

3. During hearing, Mrs. Banerjee, 1d. Counsel for the respondents invited our attention to the Order passed by the Hon'ble Apex Court in the S.L.P on 18.9.1995, which was filed against the Order dated 23.12.94 passed in OA 1131 of 1994 of this Bench of the Tribunal. Mrs. Banerjee argues that S.L.P was rejected only because of the fact that there was delay in filing of the SLP but the Law points were kept open by the Hon'ble Apex Court and, therefore, the benefit cannot be granted. This contention of Mrs. Banerjee has been strongly opposed by Mr. Ghosh.

4. We have considered the submission made by the 1d. Counsel for both the parties and perused records. Basically, there are only two points are involved in these batch of petitions. First of all, whether Hathikanda is included within the Calcutta Urban Agglomeration, secondly, whether any person or Govt. employee working or living within the area of Urban Agglomeration, even though beyond 8 km. periphery limit of the/Municipality, is entitled to get the benefit of H.R.A and C.C.A.

5. We would first deal with the first point. In this respect the Schedule of ULCR Act is very relevant and we have perused the Schedule and find that Haringhata Police Station is within the Urban Agglomeration of Calcutta and the name Hathikanda remains figured there. Therefore, despite the denial of the Registrar General of Census of India and the Ministry of Finance that Hathikanda is not within the area of Calcutta Urban Agglomeration, we are clearly of the view that Hathikanda is very much within the jurisdiction of Calcutta Urban Agglomeration and, therefore, the contention made by the applicants is correct. It is unfortunate that the respondents being responsible officers have opposed these petitions even without perusing the Schedule of ULCR Act.

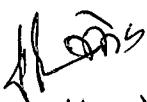
5. As regards second point, we find that there is a specific provision in this regard. Mrs. Banerjee argues that even before coming into force the ULCA Act, the Govt. ^{employees} officers used to draw H.R.A and C.C.A under basic rules and, therefore, after coming into force the ULCA Act the basic rules has not been changed at all. We have perused the basic rules in this regard as mentioned in Swamy's Compilation of FRSR Part-V H.R.A and C.C.A, as corrected upto 1st September, 1993. ^{It} is noted that after coming into force the ULCA Act, the provision has been liberalised and it is clear from the clarification no. 2 (at page 11) as contained in the Govt. of India, Ministry of Finance, Office Memorandum No. 11021/6/76-E.II (B)

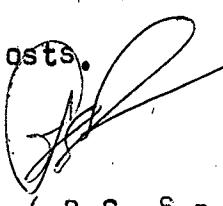
dated the 26th October, 1977. The said Clarification runs as follows :-

"It has been decided in consultation with the Staff Side of the National Council (JCM) that House Rent Allowance will also now be payable to the Central Government employees within the area of the Urban Agglomeration of classified city at the rates admissible in the classified city. The existing provisions for the payment of House Rent Allowance under paras 3(b)(ii) and 3(b)(iii) of the Office Memorandum dated 27.11.1965 will, however, continue to be applicable only at places which are within 8 kilometres of municipal limits of classified cities, but which are not included within Urban Agglomeration of any city, subject to fulfilment of usual conditions laid down and subject to issuance of specific sanctions therefor as before."

A careful perusal of the Clarification clearly indicates that two provisions are disjunctive and not conjunctive. Therefore, it is abundantly clear that the H.R.A and C.C.A at qualified city rates are payable to the Central Government employees within the area of the Urban Agglomeration of classified city concerned at the rates admissible. We have already said that Hathikanda is within the area of urban agglomeration and this being the position, we have no doubt that the applicants are entitled to receive H.R.A and C.C.A at Calcutta rates from the dates of their due. In this regard, we entirely agree to the Judgement passed by this Tribunal on 23.12.1994 in OA No. 1131 of 1994.

6. In view of the above position, all the applications are allowed. The respondents are directed to give benefit of H.R.A and C.C.A at Calcutta rates to the applicants from their dates due along with the arrears within 2(two) months from the date of communication of this Order. No Order is passed as regards costs.


(D. Purkayastha)
Member (J)


(B.C. Sarma)
Member (A)