

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

CALCUTTA BENCH

O.A. 237 of 1997

Present : Hon'ble Mr. D. Purkayastha, Judicial Member.

Dr. S.S. Choubey, Farm Superintendent, C.R.L.R.R.S.  
Residing at C/1-66, I.I.T. Campus, Indian Institute  
of Technology, Kharagpur, Dist. Midnapore-721302.

...Applicant.

- v e r s u s -

1. The Director General, Indian Council of Agricultural Research, New Delhi.
2. The Director, Central Rice Research Institute, Cuttack, Pin-753 006.(Orissa).

...Respondents.

For the applicant : In person.

For the respondents : Mr. S.N. Das, counsel.

Heard on 22.7.98

Order on 12.8.98

  
D. Purkayastha, JM

O R D E R

The short question involved in this case is whether the applicant being allotted a quater, on payment of the commercial licence fee by some other Deptt. can be treated as <sup>an allottee of</sup> Govt. accommodation for denial of House Rent Allowances admissible to the Govt. employees not provided with the Govt. accommodation.

2. According to the applicant, he is a permanent employee of he Central Rice Research Institute, Cuttack which is a wing of the Indian Council of Agricultural Research, in short known as I.C.A.R. and he is presently posted at Central Rainfed Low Land Rice Research Station, I.I.T. Campus, Kharagpur which is a part of the Central Rice Research Institute, Cuttack. On the request made by the Director, C.R.R.I., vide its letter dated 3rd April 1992 (Annexure-A/1 to the application), the Director, I.I.T., Kharagpur allotted a quarter to the applicant on payment of commercial licence fee at the rate much higher than the normal licence fee, since the C.R.L.R.R.S. has no Govt. residential accommodation for its staff at Kharagpur. As per allotment of quarter by the Director of I.I.T., Kharagpur, he took possession of the same on temporary basis on payment of commercial licence fee at the rate of Rs.830/- p.m. ( 10 times of the normal licence fee), + service charges. After such allotment the applicant made a representation that 11.02.98

to the Director, I.I.T., Kharagpur for reduction of the rate of licence fee which was Rs.830/- p.m. As a result of representation, the Estate Officer, I.I.T. Kharagpur intimated the applicant that the commercial licence fee charged from all the staff concerned is reduced to half of it with effect from 1st July, 1994 vide letter dated 17.6.94 (Annexure-A/4 to the application). The grievance of the applicant is that since he was allotted a quarter by some other Department i.e. I.I.T. Kharagpur on payment of commercial licence fee which is higher than the normal licence fee as per F.R.S.R., is entitled to draw House Rent Allowances at the rate of Rs. 220/- per month. But to the utter surprise, the respondents had withdrawn the House Rent Allowances from his pay slip from the month of October '95 which would be evident from the pay slip marked as Annexure-A/5 to the application. Thereafter he made representations to the authorities on 25.3.96 for re-imbursement of the House Rent Allowances but that was turned down by the respondents by a letter dated 24.5.96 Annexure-A/6 to the application stating that the applicant is not entitled to get House Rent Allowances since he was provided with Govt.accommodation.

3. Fee-ling aggrieved of and dissatisfied with the said order, the applicant has approached this Tribunal by filing this application.

4. The respondents resisted the claim of the applicant by filing a written statement. In the written statement, respondents took the stand that as per rules, those employees who are residing in the Govt. accommodation either allotted to him or sharing accommodation allotted to other officials will not be entitled for House Rent Allowances unless otherwise sanctioned. The respondents submit that the applicant provided with accommodation as per allotment made by the I.I.T. Kharagpur and that fact has been suppressed by the applicant and claimed House Rent Allowances simultaneously for one and half year which is a serious offence and respondents reserved the right to take suitable action as deemed fit under CCS Conduct Rules besides, recovery of the House Rent together with interest and penal interest from the applicant. Since the applicant was provided with a Govt. accommodation by I.I.T. authority, he is not

entitled to get any House Rent Allowances as claimed in the application and thereby the application is liable to be dismissed.

5. Applicant appears in person and argued that since he was not provided with Govt. accommodation by the Department concerned and he was provided with accommodation by other agencies on payment of commercial licence fee which is higher than the normal licence fee on occupation of the Govt. quarter, such accommodation cannot be termed as "Govt. accommodation" in real sense for the purpose of denial of the House Rent Allowances as admissible to him under the rules. He further submits that the stoppage of House Rent Allowances by the respondents due to accommodation provided by the other agencies as stated above is highly arbitrary and illegal in view of the judgment of the Patna Bench of the CAT reported in 1993 (25) ATC 806 in case of D.N. Prasad and Ors. Vs. Union of India & Ors.

6. Ld. counsel Mr. Das, Sr. Counsel appearing on behalf of the respondents strenuously argued before me that as per rules since the applicant was accommodated in a Govt. quarter belonging to other Department thereby he is not entitled to get any House Rent Allowances from the date of occupation of the said quarter for the reasons that employee provided with Govt. accommodation shall not be entitled to receive the House Rent Allowances. But in the instant case, the applicant suppressed the facts of accommodation in the Govt. quarter allotted by I.I.T. Kharagpur and when it was detected, the respondents had stopped the payment of H.R.A. to the applicant as claimed in the application. So application is devoid of merit and liable to be dismissed. Because rule does not confer any right to receive H.R.A. on being provided with Govt. accommodation.

7. I have considered the submission of Id. counsels for both the parties and perused records and rules. I do not find any definition of the word the "Govt. accommodation" in the allotment rules as well as for the purpose of payment of the H.R.A. to the Govt. employees not provided with quarter in place of duty. There is no dispute that an employee not in occupation of a Govt. quarter at the station of duty will be eligible

to draw H.R.A. at the rate prescribed under the rules. In other words, H.R.A. shall be paid to all employees other than those provided with Govt. owned/hired accommodation. It is admitted fact that I.C.A.R. under which the applicant has been working does not possess any Govt. quarter for hired accommodation at Kharagpur. It is found that on the request of the Director of the parent Deptt. of the applicant, the Director, I.I.T. Kharagpur extended his goodness and provided quarter under their disposal to the applicant on payment of commercial licence fee which is higher than that of the normal licence fee <sup>payable by applicant</sup> applicable under ordinary rules. H.R.A. is also admissible to the employees who live in a house owned by him. It is also found at page 72 of Swamy's Hand Book - 1996 that any employee sharing accommodation with another employee (i.e. spouse, parent, daughter, children) to whom Govt. quarter has been allotted and is paying licence fee, is entitled to draw H.R.A.-para 5(e). In the instant case, accommodation was not provided by the Department concerned, quarter <sup>also</sup> also allotted <sup>by</sup> other agencies on receipt of the commercial licence fee of the applicant. I have gone through the case referred to by the applicant where it is found that the applicant in that case was employee of Custom and Central Excise Deptt., Govt. of India and he was posted to Bokaro Steel City and on request made by him to the authority through proper channel, he was allotted a residential accommodation by the Steel Authority of India, Bokaro. The applicant started paying rent in respect of such accommodation directly to the Steel Authority of India. But Asstt. Collector of Custom and Central Excise, Bokaro acting on the order of the Govt. of India conveyed through the Collector <sup>stopped</sup> ~~subject to~~ the payment of H.R.A. to the applicant. In that judgment after considering the submission of the Id. counsel for both the parties the Id. members of the Tribunal held that-

" Although it has been stated that under existing rules Government employees who are allotted accommodation by Government agencies in scheduled rent are not eligible for payment of house rent allowance, no such rule has been shown except Rule 229. It has already been held that Rule 229 does not authorise

that house rent allowances will be stopped. In the facts and circumstances the applications are to be allowed and the orders made to be quashed."

In view of the aforesaid circumstances, it would be unreasonable on the part of the respondents to stop the House Rent Allowances as admissible to him on the ground of allotment of quarter to him by the I.I.T. agencies. Under normal rules, on occupation of the Govt. accommodation he will not get any licence fee but 10% of the basic pay would be deducted from the salary. But as per existing rules, the fixed amount is being deducted at flat rate according to the area occupied by the Officer in the Govt. accommodation. As I have already mentioned above, employee sharing accommodation with another employee to whom Govt. quarter is allotted and he is paying licence fee ~~to be~~ is entitled to draw house rent allowance and the said provision clearly indicates that mere sharing accommodation <sup>in</sup> ~~with~~ the Govt. <sup>Quarter</sup> ~~employee~~ would not disentitle to the employee to receive House Rent Allowance. I am of the view that the accommodation provided by the other agencies other than concerned Deptt. on receipt of the commercial licence fee cannot be a justifiable ground for stoppage of the H.R.A. in all circumstances stating that Govt. accommodation and drawal of H.R.A. at the same time are not permissible under the rules. In the aforesaid reasons and circumstances, I quash the order dated 17.8.86 (Annexure-A/7) as it is found arbitrary, unreasonable and devoid of material consideration of the facts and rules. So, I hold that the applicant is entitled to draw House Rent Allowances as per rules applicable to him and the applicant is entitled to get all arrears of H.R.A. w.e.f. October '95. In the aforesaid circumstances, I allow the application after setting aside the impugned orders dated 24.5.96 and 17.8.96 respectively. With the aforesaid observation, application is allowed accordingly.

8. No order is passed as to costs.

*HL*  
12/8/98  
( D. Purkayastha )  
M e m b e r (J)