

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

Original Application No. 445 of 2010

Tuesday, this the 1st day of March, 2011

Hon'ble Justice Mr. P.R. Raman, Judicial Member
Hon'ble Mr. K. George Joseph, Administrative Member

Augustine T.A., S/o. J. Augusty,
 aged 48 years, Volley Ball Coach,
 Sports Authority of India Training
 Centre, Calicut-673 004.

..... **Applicant**

(By Advocate – Mr. V.B. Hari Narayanan)

V e r s u s

1. Union of India, represented by Secretary to Government, Ministry of Youth Affairs and Sports, New Delhi.
2. Spots Authority of India, Khel Bhavan, New Delhi, Rep. by its Director General.
3. Regional Director, Sports Authority of India, N.S. Southern Centre, Mysore Road, Bangalore 560056.
4. Accounts Officer, Sports Authority of India, N.S. Southern Centre, Mysore Road, Bangalore 560056.

..... **Respondents**

[By Advocate – M/s. Govindh K. Bharathan Associates (R2-4)]

This application having been heard on 01.03.2011, the Tribunal on the same day delivered the following:

ORDER

By Hon'ble Mr. Justice P.R. Raman, Judicial Member –

The applicant was a Volley Ball Coach at Sports Authority of India Training Centre, Calicut. He was residing in a rented house at Calicut. But he used to avail

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the facility in the hostel meant for trainees occasionally and was taking food from the hostel at concessional rates. This was during the period between 1999 to 2003. Thereafter based on an audit objection he was served with a notice Annexure A-3 dated 1.10.2003 to submit his explanation with regard to the audit objection alleging irregular payment of HRA of Rs. 50,714/- and outstanding boarding charges of Rs. 94,517/-. Annexure A-4 is the audit objection. The objection is that the coach was provided accommodation in the office premises. The boarding facility available to the residential inmates/trainees in the centre was also continuously been availed by him. It is also pointed out that the coaches posted at a place on a permanent measure were not eligible for availing the boarding facilities. Further he was only paying some nominal charges for availing boarding facilities. The average amount paid by him was only Rs. 10.77 per day. On the other hand the boarding charge per day was Rs. 75/- as incurred by the Sports Authority of India. Thus there is a short collection of Rs. 64.23 per day. The short fall is calculated to be Rs. 1,02,375/-. It is also pointed out that HRA was also paid to him to which he was not entitled and therefore, he has availed double benefits. The amount to be recovered in the form of HRA granted was Rs. 50,714/-. In the explanation now offered by the applicant it is submitted that he has availed the boarding facilities in the hostel by paying 50% cost of the prevailing rate of the trainees. As regards number of days it is stated that Sports Authority of India provides boarding facilities to a maximum of 300 days per year and during holidays unless and until the need arises no boarding facility is provided. As regards the lodging facility it is stated that he has never stayed in the hostel as a permanent occupant though the permission for the coaches to stay in the



hostel exists vide letter dated 16.8.1997. He was only utilizing the facility occasionally as and when required by paying establishment charges.

2. According to him in the above circumstances the boarding facilities availed by him as is available to inmates of the hostel is permitted by the authority and following the precedents in this regard. According to him he was not availing the lodging facilities except when occasion arises as he was staying in a rented house.

3. In the reply affidavit filed by the respondents in paragraph 2 it is stated as follows:-

“2. It is not true that earlier all the coaches were permitted to stay in the hostel and avail the boarding and lodging facilities at concessional rates. However, only the required coaches on duty were permitted to stay and avail boarding/lodging facilities at concessional rate. The applicant was staying in the rented house at Calicut town and paying rent. Further, whenever he was on duty he used to avail the facility of boarding occasionally by paying concessional rate of Rs. 20 (50% of Rs. 40/- which is the rate of inmates per day).”

4. From the above it is admitted that he was staying in a rented house and therefore, HRA paid to him is no way irregular. As regards the boarding facilities available to him at concessional rates it is submitted that he used to avail the boarding by paying Rs. 20/- occasionally. In other words he was not availing the boarding facilities on regular basis. It is also stated that whenever he availed the boarding facility he was paying the 50% of the normal rate.

5. Annexure A-2 is a letter issued by the Hostel-in-charge pursuant to the letter of the Executive Director, Sports Authority of India dated 16.8.1997 which reveals that a room was allotted to one of the 10 coaches Shri Joseph Thomas permitting him to stay in the hostel on payment basis of Rs. 20/- per day for boarding charges



and Rs. 100/- per month for lodging charges. But in this case the applicant was not staying in the hostel on a payment basis as he was staying in a rented house as admitted in paragraph 2 of the reply statement filed by the respondents. He was also not availing the boarding facilities on all the days and he was only availing the boarding facilities occasionally as is stated in paragraph 2 of the reply statement.

6. On the basis of the above admission made if we examine the justifiability of the recovery now sought to be made it has to be held that on the factual situation he has not availed the double benefits as alleged in the audit objection. Admittedly he was staying in a rented house and availing the HRA as is entitled to by him. The applicant was not staying in the hostel on a regular basis and only occasionally he was staying, for which he was paying lodging charges. As regards the concessional charges availed in boarding facility true he has availed such concession but he has not availed boarding facility as averred in paragraph 2 and he has paid 50% charges. There is no case for the authorities that no such permission was granted to him. If it was otherwise certainly he would have been asked to vacate the premises. Thus made to believe that he is availing the concessional rate of boarding facility on certain days, he having availed the same without any objection from any quarters and after several years of availing such benefit, to say that he has availed the benefit wrongly is certainly a hardship caused to him. The above facts would also reveal that it is only based on a change of opinion based on the audit objection that the recovery is sought to be made. One of the conditions based on which relief could be moulded as held by the Apex Court in Registrar, Co-operative Societies, Haryana & Ors. vs. Israil Khan and others; 2010 (1) SCC (L&S) 1123.



7. In the result we allow this Original Application and set aside Annexure A-6 to the extent it is directed to recover the amount from the salary of the applicant. No order as to costs.



(K. GEORGE JOSEPH)
ADMINISTRATIVE MEMBER



(JUSTICE P.R. RAMAN)
JUDICIAL MEMBER

“SA”