

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A. No.505/98

Tuesday, this the 30th day of November, 1999.

CORAM:

HON'BLE MR AM SIVADAS, JUDICIAL MEMBER

1. A.G. Ratnakumaran,
Accountant,
Lakshadweep Harbour Works,
Amini Island,
Union Territory of Lakshadweep.
2. C.K. Rarukutty,
Assistant Engineer (C),
Lakshadweep Harbour Works,
Kavaratti, Union Territory
of Lakshadweep.
3. T. Venu,
Lower Division Clerk, - do -
4. T.P. Damodaran,
Work Assistant, - do -
5. A. Karikutty,
Daftry, - do -
6. P. Sankaran,
Carpenter Grade-I, - do -

...Applicants

(Applicants 1 to 6 represented through their Authorised Representative P. Radhakrishnan Nair, S/o.P.Ramakrishna Pillai, aged 42 years, Officer in Charge, Lakshadweep Harbour Works, Kochi.)

By Advocate Mr. Shafik M.A.

Vs.


1. Union of India represented by the Secretary,
Ministry of Surface Transport,
Transport Bhavan, New Delhi.
2. Chief Engineer and Administrator,
Andamans and Lakshadweep Harbour Works,
Port Blair,
Andaman & Nicobar Islands.
3. Deputy Chief Engineer,
Lakshadweep Harbour Works,
Kavaratti,
Union Territory of Lakshadweep.

...Respondents

By Advocate Mr. S. Radhakrishnan, ACGSC

The application having been heard on 30.11.99, the
Tribunal on the same day delivered the following:

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ORDER


HON'BLE MR AM SIVADAS, JUDICIAL MEMBER

Applicants seek to quash A-1 and A-2 to the extent those deny them the benefit of double House Rent Allowance (HRA for short) as per A-6, to declare that they are eligible and entitled to draw double HRA as per A-6, O.M. of the Ministry of Finance and to direct the respondents to continue the benefit without any break.

2. Applicants were enjoying the benefit of double HRA. They got it by virtue of A-7, A-8 and A-9 orders issued in the year 1995. A-7 and A-9 are issued by the 3rd respondent while A-8 is issued by the Additional Chief Engineer. As per A-1, issued by the 3rd respondent, applicants are not entitled to double HRA. For this purpose, reliance is placed on A-2, a clarification issued by the Ministry of Surface Transport.

3. Applicants have stated in the O.A. that A-1 is issued only with regard to the applicants whereas a number of employees in the same organisation are still granted double HRA. In the reply statement, it is stated that all employees who were transferred from Calicut to Kavaratti on account of shifting of the Office of the Deputy Chief Engineer, and also transferred from Calicut in mainland to other islands in Lakshadweep were sanctioned and paid double HRA as per O.M. dated 29.3.84 of the Ministry of Finance and payment to those transferred on account of shifting of the Deputy Chief Engineer's Office only has been stopped relying on A-2. I find it really very difficult to understand what the respondents really mean by saying simultaneously that all the employees who are transferred from Calicut to Kavaratti on account of shifting of the Office of the Deputy Chief Engineer are paid double HRA as per O.M. dated

contd..3/-



29.3.84 and that payment to those who are transferred on account of shifting of the Deputy Chief Engineer's Office has been stopped based on A-2. How certain persons transferred from Calicut to Kavaratti due to shifting of the Office of the Deputy Chief Engineer are entitled when certain others who are transferred on account of shifting of the Deputy Chief Engineer's Office are not entitled. There cannot be different yardsticks for persons similarly placed. It can be a case that all persons who have moved from Calicut on account of shifting of the Office of the Deputy Chief Engineer to the island are not entitled or are entitled. The respondents, apart from saying certain persons are entitled and certain persons are not entitled, how certain persons are entitled and how the persons like the applicants are not entitled is left in the dark. If A-2 governs the field, those who are identically placed as per A-2 should be treated alike. The clarification given is that since the office is shifted permanently from Calicut to Lakshadweep island, there is no transfer of Government employees and therefore, they are not entitled for the benefit of double HRA. As per A-3 and A-4, applicants have been transferred and posted to Kavaratti due to shifting of the Headquarters of the Deputy Chief Engineer from Calicut to Kavaratti island. It seems that the respondents are not quite sure or definite whether it is a case of shifting of the Headquarters or it is a case of transfer and posting of the applicants.

4. It is clearly seen that the applicants were granted the benefit of double HRA till the issuance of A-1 and by A-1, it is taken away without giving them an opportunity to present their case. In the O.A., it is stated that the applicants have submitted

contd..4/-



representations against A-1 to the 3rd respondent and nothing has turned out on those representations so far. The learned counsel appearing for the applicants submitted that the representations submitted by the applicants are not exhaustive.

5. In the said circumstance, it is only just and proper to permit the applicants to submit a joint representation for redressal of their grievance through proper channel.

6. Accordingly, applicants are permitted to submit a joint representation to the 1st respondent through proper channel within four weeks from today. If such a representation is received, the 1st respondent shall consider the same and pass appropriate orders within three months from the date of receipt of the representation. A-1 order shall not be put into effect till the disposal of the representation.

7. O.A. is disposed of as above. No costs.

Dated this the 30th day of November 1999.



A.M. SIVADAS
JUDICIAL MEMBER

nv/291199

LIST OF ANNEXURES REFERRED TO IN THIS ORDER

1. **Annexure A-1:** True copy of the letter No.LHW/ESTT/10/716 dated 12.3.1998 issued by the 3rd respondent.
2. **Annexure A-2:** True copy of the letter No.A-27023/1/94-PE II dated 9th of February, 1996 issued on behalf of the first respondent.
3. **Annexure A-3:** True copy of the Office Order No.310/93 (No.LHW/ESTT/110/93/3655) dated 13.12.1993 of the Deputy Chief Engineer, Lakshadweep Harbour Works, Calicut - 10.

contd..5/-

4. Annexure A-4: True copy of the Office Order No.311/93 (No.LHW/ESTT/110/93/3656) dated 13.12.1993 of the Deputy Chief Engineer, Lakshadweep Harbour Works, Calicut - 10.
5. Annexure A-6: True copy of the Order No.ALHW/ACTT/4(31)/83 dated 6.3.85 of the 2nd respondent.
6. Annexure A-7: True copy of the Office Order No.142/95 (No.LHW/ESTT/32/1139) dated 31.10.1995 of the 3rd respondent.
7. Annexure A-8: True copy of the Office Order No.27/95 (No.LHW/ESTT/32/245) dated 17.7.1995 of the 3rd respondent.
8. Annexure A-9: True copy of the Office Order No.208/95 (No.LHW/ESTT/32/1678) dated 12.12.1995 of the 3rd respondent.