

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

OA 580/2001

Monday, this the 4th day of March, 2002.

CORAM :

HON'BLE SHRI T.N.T. NAYAR, ADMINISTRATIVE MEMBER

1. C.R. Madhukumar, aged 33 years,
S/o V.K. Ravindran Nair,
Keyman, Southern Railway,
Gang No.2, Aroor, Alappuzha District,
Residing at Ramamangalam, Poozhikole P.O.,
Appanchira, Kottayam District.
2. M.K. Subramanian, aged 51 years,
S/o Kadutha,
Gate Keeper, Southern Railway,
Aroor, residing at Mechirappattu House,
Perumpilly P.O., Mulanthuruthy,
Ernakulam District.
3. V.M. Gopi, aged 47 years,
S/o Madhavan,
Trackman, Southern Railway, Aroor,
Residing at Karimpadam, Cheranallur,
Ernakulam District.
4. A.T. Varkey, aged 43 years,
S/o Thoma, Trackman, Southern Railway,
Aroor, residing at Alukka House,
Peechanikkad, Puliyanam P.O.,
Ernakulam District.
5. P.N. Bhavani, aged 60 years,
W/o Madhavan,
(Retd.) Trackwoman,
Southern Railway, Aroor,
Residing at "Pappampillil",
Vymeethi, Tripunithura,
Ernakulam District.
6. V.K. Bharathy, aged 58 years,
W/o Kesavan, Trackwoman,
Southern Railway, Aroor,
Residing at Velipparambil,
Vymeethi, Tripunithura,
Ernakulam District.
7. T.N. Karthikeyan, aged 52 years,
S/o Velayudhan,
Gate Keeper, Southern Railway,
Kumbalam R.S. & P.O.,
Residing at "Planthadom",
Erumbayam Kara,
Erumbayam P.O.,
Via. Thalayola Parambu,
Kottayam District.

8. I.S. Chandran, aged 40 years,
S/o Sukumaran,
Senior Trackman, Southern Railway,
Kumabalam R.S.&P.O.,
Residing at Ithikara House,
Vallarpadam P.O., Ernakulam District. .. Applicants

(By Advocate Shri T.C. Govindaswamy)

Vs

1. Union of India rep. by the
Secretary to the Government of India,
Ministry of Railways(Railway Board),
New Delhi.
2. The General Manager,
Southern Railway, Head Quarters Office,
Park Town P.O., Chennai-3.
3. The Divisional Railway Manager,
Southern Railway, Trivandrum Division,
Trivandrum-14.
4. The Senior Divisional Personnel Officer,
Southern Railway,
Trivandrum Division,
Trivandrum-14. .. Respondents

(By Shri Thomas Mathew Nellimmottil)

The application having been heard on 4.3.2002, the Tribunal on the same day delivered the following :

ORDER

HON'BLE SHRI T.N.T. NAYAR, ADMINISTRATIVE MEMBER

The applicants, eight in number, were working as Gangman/Gangwoman, Trackman/Track woman/Gate Keeper etc. at Aroor Railway Station, which was commissioned on 15.10.1989. The applicants' claim for House Rent Allowance(HRA) w.e.f. 15.10.1989 as applicable to the Central Government employees working in Aroor and depending on the Urban Agglomeration of Cochin for their daily life is denied. The question had earlier come up for this Tribunal's consideration in OA No.315/98, and this Tribunal, by A1 order dated 1.7.1999, remitted the matter to the respondents for passing appropriate orders on the basis of the submission made by the respondents' counsel in that case with regard to the necessity to obtain dependency certificate from the District Collector for the purpose of grant of HRA and the need to look into the matter for taking a correct decision. As per

the communication A2 dated 6.12.1999, the 4th respondent had informed Shri T.N. Karthikeyan, the 11th applicant in OA 315/98 and 7th applicant in the present OA to the effect that ^{the} former had already obtained dependency certificate issued by the District Collector, Alappuzha, in respect of Aroor, that Aroor was dependent on Cochin Corporation and that, as such, the Railway employees working at Aroor are eligible for House Rent Allowance(HRA) at the rates applicable to Cochin Corporation w.e.f. 15.10.1989. It was also mentioned in A2 that the matter had since been referred to Railway Board for appropriate sanction order for grant of HRA based on the dependency certificate issued by the District Collector. While waiting for the sanction order by the Railway Board, the applicants apparently received a jolt by A3 communication dated 14.12.2000 which was based on A4 communication containing Railway Board's letter dated 18.9.2000 retracting from the earlier accepted stand of the 4th respondent and holding that the Railway employees working at Aroor Railway Station may be paid HRA at the rates applicable to those posted within the classified city of Kochi(UA) (B2 Class city) w.e.f. 1.6.1999 only. The said communication of the Railway Board also would make it clear that the sanction order is subject to various other conditions mentioned therein. However, the crucial observation was that the applicants' claim for HRA is permissible from 1.6.1999 as against 15.10.1989 claimed by them. A3 and A4 communications are challenged by this OA and the applicants seek the following reliefs :-

(a) Call for the records leading to the issue of Annexures A3 and A4 and quash the same to the extent they read that they would come into effect only with effect from 1.6.1999;

(b) Declare that the applicants are entitled to the payment of House Rent Allowance at the rates as applicable to the classified city of Cochin(Urban Agglomeration) from the dates of their respective posting at Aroor Railway Station and direct the respondents to grant all the

consequential benefits, including the arrears thereof, within a time limit as may be found just and proper by this Hon'ble Tribunal.

2. The respondents have resisted the application by stating that the question of grant of HRA in places located within the stipulated distance in the periphery of Urban Agglomeration areas was considered in detail by the Finance Ministry in different cases and that with regard to Railway employees at Aroor which lies within the stipulated distance from the outer limits of Cochin(UA), it was decided that HRA was admissible w.e.f. the date on which the District Collector signed the relevant dependency certificate. The date on which the District Collector, Alappuzha signed the said certificate was 1.6.1999 and hence the initial sanction for payment of HRA to the Railway employees working in Aroor at the rate applicable to those posted within the classified city of Kochi(UA) was made effective from 1.6.1999. The respondents also claim that for initial sanction of HRA, the dependency certificate indicating retrospective effect is not acceptable to the Ministry of Finance. The applicants have disputed the claim of the respondents in the rejoinder by stating that consultation by the respondents appeared to have been made only with Finance Director of the Ministry of Railways and there was no communication to the fact that Ministry of Finance has held that in respect of the applicants, HRA was admissible only w.e.f. 1.6.1999.

3. I have heard Shri Martin, the learned counsel for the applicants and Shri Thomas Mathew Nellimoottil, the learned counsel for the respondents. It is submitted by Shri Martin that the date on which the District Collector signed the relevant dependency certificate is not the deciding date on which the applicants could be held dependent on the Cochin(UA) for the purpose of HRA. Whatever be the date of the certificate, once the fact of dependency was accepted by the Collector, and that

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fact having been recognised even with reference to other Central Government employees working at Aroor, there was no question of relating admissibility of HRA to the date on which the certifying officer signed the relevant certificate. Some of the applicants were not even working in Aroor on 1.6.1999 as could be seen from the relevant establishment records. The claim was with reference to the applicants who were working in the depending station, namely, Aroor as on 15.10.1989 and thereafter and the claim was admissible at the rates applicable to the classified city of Cochin(UA). In this view of the matter, the respondents' stand that the claim was admissible w.e.f. date on which the District Collector signed the relevant certificate, is wholly perverse, according to the learned counsel for the applicant. Shri Thomas Mathew Nellimoottil, on behalf of respondents would state that the certificate would ~~give~~ take effect from the date on which the Collector signed the certificate and as far as the initial grant of HRA was concerned, retrospective effect was not permissible.


4. I have perused the material placed on record and carefully considered the submissions made by the rival counsel.

5. In my view, the District Collector's certificate with regard to the dependency of the Railway employees, or for that matter, any Central Government employees on any particular Urban Agglomeration does not take effect from the date on which the certificate is signed. It is a factual declaration of the fact of dependency. The matter was referred to the Collector for examining in detail whether the Central Government employees working in offices located at Aroor had to be dependent on the Urban Agglomeration of Cochin for the purpose of their daily life. There is no indication that the Collector was expected to take a decision whether the said employees were dependent on Cochin(UA) from a date later than the date(dates) of their

initial posting at Aroor. In other words, the certificate is only a declaration regarding dependency, and accordingly there is no justification for allowing the HRA from the date of the certificate. Aroor was on the periphery of Cochin(UA) even prior to the date on which the Collector happened to sign the certificate. He could have signed the certificate any day before or after 1.6.1999. This is immaterial. Other Central Government employees working in Aroor are getting HRA at the rates as applicable to the classified city of Cochin(UA). Employees of the Postal Department for instance are getting HRA on these lines with effect from a prior date. The employees should get HRA at appropriate rate from the date from which they were posted at the particular place in the periphery of the Urban Agglomeration. Accordingly, the applicants being posted at Aroor, were eligible for HRA w.e.f. 15.10.1989 at the rates applicable to those posted within the classified city of Cochin(UA) in accordance with the rules and regulations and orders in force.

6. The impugned communications A3 and A4 are liable to be set aside to the extent those affect the claims preferred by the applicants in this application, and I do so. The respondents are directed to make fresh orders allowing the applicants to draw the HRA at the appropriate rate in the light of the above directions. The above exercise shall be completed within a period of three months from the date of receipt of copy of this order. No order as to costs.

Dated the 4th March, 2002.



T.N.T. NAYAR
ADMINISTRATIVE MEMBER

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A P P E N D I X

Applicants' Annexures:

1. A-1: True copy of order of this Hon'ble Tribunal in OA No.315/98 dated 1st July, 1999.
2. A-2: True copy of the letter No.V/P4/CP of 6th December, 1999 issued by the 4th respondent.
3. A-3: True copy of the letter No.V/P.54/CP of 14.12.2000, issued by the 4th respondent.
4. A-4: True copy of the Railway Board Order No.E(P&A)II/2000/HRA-7 dated 18.9.2000, communicated under letter No.V/P54/CP of 20.11.2000 from the office of the 4th respondent.
5. A-5: True copy of the Reply statement in OA 315/98 dated 6.5.98 filed by the respondent.
6. A-6: True copy of the Statement in MA No.258/98 in OA No.315/98 dated 27.4.99 filed by the respondent.
7. A-7: True copy of the order bearing No.7-42/82, P&T dated 31.3.83, issued from the office of the Director General, P&T.

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