

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A. No. 277/98

Tuesday, this the 23rd day of March, 1999.

CORAM:

HON'BLE MR AM SIVADAS, JUDICIAL MEMBER

1. K. Gurusamy,
S/o. P. Krishnasamy,
Gangman,
Directed Track Maintenance-Unit-4,
Somanur Railway Station,
Under Permanent Way Inspector(East),
Podanur, Residing at:
7/44, New Street,
Podanur.
2. G. Muthusamy,
S/o. Ganapathy Gounder,
Senior Gangman,
Directed Track Maintenance-Unit-4,
Somanur Railway Station,
Under Permanent Way Inspector/East,
Podanur, Residing at:
Karavali Madapur Village,
Palladam Taluk,
(Via) Somanur,
Coimbatore District.
3. P. Marappan,
S/o. Palani Gounder,
Senior Gangman,
Directed Track Maintenance-Unit-3,
Somanur, Under Permanent Way
Inspector/East, Podanur,
Residing at: Sedapalayam,
Subbarayan Pudur Post,
Palladam Taluk.

...Applicants

By Advocate Mr. T.C. Govindaswamy

Vs.

1. Union of India through
The Secretary to the
Government of India,
Ministry of Railways,
Rail Bhavan, New Delhi.
2. The Chairman,
Railway Board,
Rail Bhavan,
New Delhi. f1
3. The Divisional Railway Manager,
Southern Railway,
Palghat.

4. The General Manager,
Southern Railway,
Headquarters Office,
Park Town P.O.,
Madras - 3.

...Respondents

By Advocate Mr. Mathews J. Nedumpara -(Absent)

The application having been heard on 23.3.99, the Tribunal on the same day delivered the following:

ORDER

Applicants seek to quash A-7, to declare that they are entitled to the grant of House Rent Allowance at the rate as applicable to the 'qualified city' of Coimbatore Urban Agglomeration and to direct the respondents to pay them House Rent Allowance accordingly including arrears with effect from the date of issue of A-1.

2. Applicants are working as Gangmen/Senior Gangmen at Somanur Railway Station in the Southern Railway, Palghat Division. They are aggrieved by the refusal on the part of the respondents in granting them House Rent Allowance as applicable to Class 'B-I' cities. Coimbatore Urban Agglomeration is classified as 'B-I' class city as per A-1. As per 1991 census report, Muthu Gounden Pudur Railway Colony is part of Coimbatore Urban Agglomeration. Somanur Railway Station, where the applicants are working is situated within a distance of 8Kms from the periphery of Muthu Gounden Pudur Railway Colony and therefore, they are eligible for House Rent Allowance at the rates as applicable to Class 'B-I' cities.

3. Learned counsel for respondents remained absent.

4. Respondents contend that applicants cannot claim House Rent Allowance as applicable to B-I cities. Sulur Road Railway Station is part of Coimbatore Urban Agglomeration and therefore the employees working there are being paid House Rent Allowance

at the rates as applicable to Class 'B-I' cities. The Railway employees working within a distance of 8Kms from the periphery of municipal limits of qualifying city are entitled to House Rent Allowance at the rates admissible for that city provided that there is no other suburban municipality, notified area or cantonment within 8Kms limit and that it is certified by the Collector/Deputy Commissioner having jurisdiction over the area that the place is generally dependent for its essential supplies on the 'qualified city'. The dependency certificate does not indicate that Somanur is within 8Kms from periphery of Coimbatore Corporation Limits.

5. The question to be considered is what is meant by 'qualified city'. According to the applicants, 'qualified city', in this case is not to be confined to the Corporation limits of Coimbatore but includes Coimbatore Urban Agglomeration. According to the respondents what is to be looked into in this O.A. is only whether the applicants are working within a distance of 8Kms from the periphery of Coimbatore Municipal Corporation.

6. A-1 is the order issued by the Railway Board dated 19.7.93 with regard to the classification of cities for the purpose of payment of House Rent Allowance and City Compensatory Allowance. Annexure II of A-1 deals with the classification of cities as 'A', 'B-I', 'B-2' and 'C'. In A-1, it is specifically stated that the President is now pleased to decide that in supersession of all existing orders relating to the classification of cities/towns for the purpose of grant of HRA/CCA to railway employees, cities/towns shall now be re-classified as 'A', 'B-I' and 'B-2' for the purpose of City Compensatory Allowance as enumerated in Annexure-1 and as 'A', 'B-I', 'B-2' and 'C' class for the purpose of House Rent Allowance as enumerated in Annexure II. Column 2 of Annexure II of A-1 specifies those

cities classified as 'B-I'. There it is stated thus "Coimbatore(UA)". UA means Urban Agglomeration. So, it is clear from the classification made as per A-1 that Coimbatore Urban Agglomeration is a Class 'B-I' city for the purpose of payment of House Rent Allowance. There is no dispute as to A-1.

7. Respondents say that reliance is to be placed on the dependency certificate issued by the District Collector. A-8(1) is the dependency certificate issued by the District Collector, Coimbatore. There it is stated that Somanur is within a distance of 16Kms from the periphery of the Coimbatore Corporation Limit, that excepting Coimbatore there is no other Corporation, notified area or cantonment within a distance of 16Kms from Coimbatore Corporation and it is generally dependent for its essential supplies like Foodgrains, Milk, Vegetables, Fuel, etc. and that although there is Coimbatore Corporation within a distance of 16Kms from Somanur, the latter is generally dependent for its essential supplies like Foodgrains, Milk, Vegetables, Fuel etc. on Coimbatore Corporation.

8. A-8(1) says that Somanur is within a distance of 16Kms from the periphery of the Coimbatore Corporation Limit. It doesnot say anything as to the distance from the periphery of the Coimbatore Urban Agglomeration Limit. The question to be considered is not what is the distance from Coimbatore Corporation Limit to Somanur but what is the distance from the periphery of the Coimbatore Urban Agglomeration Limit to Somanur.

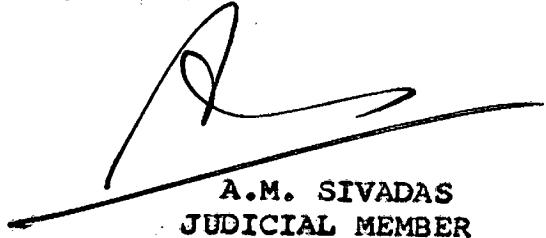
9. Applicants, in paragraph 4(b) of the O.A. have clearly stated that Somanur Railway Station where the applicants are presently working is situated within a distance of 8Kms from

the periphery of Muthu Gounden Pudur Railway Colony. This is not denied in the reply statement. There is no dispute as to the fact that Somanur Railway Station is within 8Kms from Muthu Gounden Pudur Railway Colony. That being so, the only other question to be considered is whether there is any other suburban municipality, notified area or cantonment within 8Kms limit of Coimbatore Urban Agglomeration and is it certified by the Collector that the place is generally depending for its essential supplies on the 'qualified city'. From A-8(1), it is clearly seen that both these conditions are satisfied. So, 'qualified city' in this case is not confined to Coimbatore Municipal Corporation but includes Coimbatore Urban Agglomeration.

10. A-7, the impugned order says that the request of the applicants cannot be accepted since Somanur Village is situated more than 8Kms away from the periphery of municipal limits of Coimbatore. As it is already stated that 'qualified city' in this case is not confined to Coimbatore Municipal Corporation but includes Coimbatore Urban Agglomeration. A-7, the impugned order is not sustainable and is liable to be quashed.

11. Accordingly, A-7 is quashed. It is declared that applicants who are now working at Somanur Railway Station are entitled to the grant of House Rent Allowance at the rates as applicable to 'qualified city' of Coimbatore Urban Agglomeration. Respondents are directed to pay the applicants House Rent Allowance applicable to Class 'B-I' city with effect from the date of issue of A-1 or the date of joining at Somanur whichever is later. This shall be done by the respondents within a period of three months from the date of the receipt of a copy of this order. No costs.

Dated the 23rd day of March, 1999.



A.M. SIVADAS
JUDICIAL MEMBER

LIST OF ANNEXURES REFERRED TO IN THE ORDER

1. Annexure A-1:

True copy of the Railway Board order No.109/93
dated 19.7.93 issued by the Railway Board.

2. Annexure A-7:

True copy of the Letter No. P(B) 500/C.Case/PGT
dated 10.12.96 issued by the fourth respondent.

3. Annexure A-8:

True copy of the dependency certificate No. 103405/
96-C4 of 10.10.96, issued by the District Collector,
Coimbatore.

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23399

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

OA No. 277 of 1998

Tuesday, this the 22nd day of February, 2000

CORAM

HON'BLE MR. A.M. SIVADAS, JUDICIAL MEMBER

1. K. Gurusamy,
S/o P. Krishnasamy,
Gangman,
Directed Track Maintenance Unit-4,
Somanur Railway Station,
Under Permanent Way Inspector (East),
Podanur, Residing at: 7/44,
New Street, Podanur.
2. G. Muthusamy,
S/o Ganapathy Gounder,
Senior Gangman,
Directed Track Maintenance Unit-4,
Somanur Railway Station,
Under Permanent Way Inspector (East),
Podanur, Residing at: Karavalli Madapur Village,
Palladam Taluk, (via) Somanur,
Coimbatore District.
3. P. Marappan,
S/o Palani Gounder,
Senior Gangman,
Directed Track Maintenance Unit-3,
Somanur, Under Permanent Way Inspector (East),
Podanur, Residing at: Sedapalayam,
Subbarayan Pudur Post,
Palladam Taluk.

Applicants

By Advocate Mr. T.C. Govindaswamy

vs.

1. Union of India through the
Secretary to the Government of India,
Ministry of Railways,
Rail Bhavan, New Delhi.
2. The Chairman,
Railway Board,
Rail Bhavan, New Delhi.
3. The Divisional Railway Manager,
Southern Railway,
Palghat.
4. The General Manager,
Southern Railway,
Headquarters Office,
Park Town PO, Madras-3

Respondents

By Advocate Mr. Mathews J. Nedumpara (represented)

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The application having been heard on 22nd February 2000, the Tribunal on the same day delivered the following:

O R D E R

As agreed by both sides, this Original Application was heard today.

2. Applicants seek to quash A7, to declare that they are entitled to the grant of House Rent Allowance at the rates applicable to the 'qualified city' of Coimbatore Urban Agglomeration and to direct the respondents to pay them House Rent Allowance accordingly inclusive of arrears with effect from the date of issuance of A1.
3. Applicants are working as Gangmen/Senior Gangmen at Somanur Railway Station in the Southern Railway, Palghat Division. They are aggrieved by the refusal on the part of the respondents in granting them House Rent Allowance as applicable to Class 'B-1' cities. Coimbatore Urban Agglomeration is classified as a 'B-1' class city, as per A1. As per 1991 Census report, Muthu Gounden Pudur Railway Colony is part of Coimbatore Urban Agglomeration. Somanur Railway Station, where the applicants are working, is situated within a distance of 8 Kms from the periphery of Muthu Gounden Pudur Railway Colony and, therefore, they are eligible for House Rent Allowance at the rates as applicable to 'B-1' class cities.
4. Respondents contend that the applicants cannot claim House Rent Allowance as applicable to 'B-1' cities. Sulur Road Railway Station is part of the Coimbatore Urban Agglomeration and, therefore, the employees working there are being paid House Rent Allowance at the rates as applicable to Class B-1 cities. The railway employees working within a distance of 8 Kms from the periphery of municipal limits of a qualifying city are entitled to House

Rent Allowance at the rates admissible for that city provided that there is no other suburban municipality, notified area or contonment within 8 Kms limit, and that it is certified by the Collector/Deputy Commissioner having jurisdiction over the area that the place is generally dependent for its essential supplies on the 'qualified city'. Dependency certificate does not indicate that Somanur is within 8 Kms from the periphery of Coimbatore Urban Agglomeration.

5. It is to be considered what is meant by 'qualified city'. According to the applicants, 'qualified city' in this case is not confined to the Corporation limits of Coimbatore, but includes Coimbatore Urban Agglomeration. Respondents say that what is to be looked into in this OA is only whether the applicants are working within a distance of 8 Kms from the periphery of Coimbatore Municipal Corporation.

6. Learned counsel appearing for the respondents brought to my notice and presed into service a copy of Railway Board's letter No. E(P&A)/II/89/CCA/38 dated 7.12.1989 from the Deputy Director/Pay Commission, Railway Board, New Delhi addressed to the GMs/A11 Indian Railways, etc.

7. This particular document is not produced and the learned counsel appearing for the respondents submitted that when the matter was taken up before the High Court of Kerala in OP No. 18208/99 against the ex-parte order passed in this OA, this document was produced there. From the copy of the judgment of the High Court of Kerala in the said OP, I am unable to see any reference to this particular document. Learned counsel appearing for the applicants submitted that

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he has been served with a copy of this document and the applicants have no objection in looking into this document. As agreed by both sides, I am referring to this document.

8. According to the learned counsel appearing for the respondents, this particular letter is applicable with regard to the claim of the applicants and in the light of the clarification contained therein that the concession will not be admissible in respect of places which are within 8 Kms of a qualified city/town which has been given the status of Urban Agglomeration town/city, the applicants are not entitled to the reliefs sought for.

9. It is necessary to see what is this letter and it pertains to what. The letter starts like this:

"Copy of Rly. Board's letter No.E(P&A) /II/ 89/
CCA/38 dated 7-12-1989"

(emphasis supplied)

'CCA' means the Compensatory (City) Allowance.

10. What is the subject is also specifically shown in this letter. The subject reads thus:

"Admissibility of Compensatory (City) Allowance on the basis of Dependency certificate".

From the subject portion it is clearly seen that this letter is exclusively in respect of Compensatory (City) Allowance and nothing else.

11. Learned counsel appearing for the respondents relying on Para 1705(b)(i) of IREM submitted that this letter is to read and understood as Compensatory (city) Allowance and House Rent Allowance. If this argument is

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accepted, I may have to come to the conclusion that the Railway Board is not capable of understanding the difference between Compensatory (City) Allowance and House Rent Allowance. I am not inclined to hold or conclude the Railway Board is incapable of understanding the difference between the Compensatory (City) Allowance and House Rent Allowance.

12. Para 1705(2)(iii) of IREM says that Railway employees working within a distance of 8 Kms from the periphery of the municipal limits of a qualified city should be allowed House Rent Allowance at the rates admissible in that city even though they may not be residing within those municipal limits. Here, reference is only to House Rent Allowance, whereas in Para 1705(b)(i) both Compensatory (City) Allowance and House Rent Allowance are mentioned. If the argument advanced by the learned counsel for respondents is accepted, there is no necessity to use the wordings 'House Rent Allowance' and it is enough to use the wordings 'Compensatory (City) Allowance'. Such an interpretation cannot be accepted and if accepted, will lead to absurd limits. So, the position is that the particular letter which is relied on and pressed into service by the learned counsel for respondents is having absolutely no relevancy or bearing on the question involved in this OA and is produced only for the purpose of producing a document probably for the reason that before the High Court of Kerala, while hearing the OP No. 18208/99, it was submitted that several documents are pressed into service.

13. Though from the judgment of the High Court of Kerala in OP No. 18208/99 it is seen that the respondents are pressing into service several documents, I specifically asked the learned counsel appearing for the respondents that

apart from the Railway Board's letter, is there any other document or documents for the respondents and a categorical reply was made that the Railway Board's letter is the sole document relied on.

14. A1 is the order issued by the Railway Board dated 19.7.1993 with regard to the classification of cities for the purpose of payment of House Rent Allowance and Compensatory (City) Allowance. Annexure-II of A1 deals with the classification of cities as 'A', 'B-1', 'B-2' and 'C'. In A1, it is specifically stated that the President is now pleased to decide that in supersession of all the existing orders relating to classification of cities/towns for the purpose of grant of HRA/CCA to Railway employees, cities/towns shall now be re-classified as 'A', 'B-1' and 'B-2' for the purpose of Compensatory (City) Allowance as enumerated in Annexure-I and as 'A', 'B-1', 'B-2' and 'C' class for the purpose of House Rent Allowance as enumerated in Annexure-II. Column 2 of Annexure-II of A1 specifies those cities classified as 'B-1'. There it is stated thus:

"Coimbatore (UA)"

'UA' means Urban Agglomeration. So, it is clear from the classification made as per A1 that Coimbatore Urban Agglomeration is a Class 'B-1' city for the purpose of payment of House Rent Allowance. A1 is not disputed by the respondents.

15. Respondents say that reliance is to be placed on the Dependency certificate to be issued by the District Collector. A8(1) is the Dependency certificate issued by the District Collector, Coimbatore. It is stated there that Somanur is within a distance of 16 Kms from the periphery of

the Coimbatore Corporation limit, that excepting Coimbatore there is no other Corporation, notified area or contonment within a distance of 16 Kms from Coimbatore Corporation and it is generally dependent for its essential supplies like foodgrains, milk, vegetables, fuel, etc. and that although there is Coimbatore Corporation within a distance of 16 Kms, from Somanur the latter is generally dependent for its essential supplies like foodgrains, milk, vegetables, fuel, etc. on Coimbatore Corporation.

16. A8(1) says that Somanur is within a distance of 16 Kms from the periphery of the Coimbatore Corporation limit. It does not say anything as to the distance from the periphery of Coimbatore Urban Agglomeration limit. The question to be considered is not what is the distance from Coimbatore Corporation limit to Somanur, but what is the distance from the periphery of Coimbatore Urban Agglomeration limit to Somanur.

17. Applicants, in paragraph 4(b) of the OA, have clearly stated that Somanur Railway Station, where the applicants are presently working, is situated within a distance of 8 Kms from the periphery of Muthu Gounden Pudur Railway Colony. This is not denied by the respondents in the reply statement. There is no dispute as to the fact that Somanur Railway Station is within 8 Kms from Muthu Gounden Pudur Railway Colony. That being so, the only other question to be considered is, whether there is other suburban municipality, notified area or contonment within 8 Kms limit of Coimbatore Urban Agglomeration and is it certified by the District Collector that the place is generally depending for its essential supplies on the 'qualified city'. From A8(1) it is clearly seen that both

these conditions are satisfied. So, 'qualified city' in this case is not confined to Coimbatore Municipal Corporation, but includes Coimbatore Urban Agglomeration.

18. In Schedule-1 to The Urban Land (Ceiling & Regulation) Act, 1976, it is stated that Coimbatore (UA) includes Muthu Gounden Pudur Railway Colony. This also goes in support of the case of the applicants.

19. A7, the impugned order, says that the request of the applicants cannot be accepted since Somanur Village is situated more than 8 Kms from the periphery of municipal limits of Coimbatore. As it is already stated that 'qualified city' in this case is not confined to Coimbatore Municipal Corporation but includes Coimbatore Urban Agglomeration, A7 the impugned order is not sustainable and is liable to be quashed.

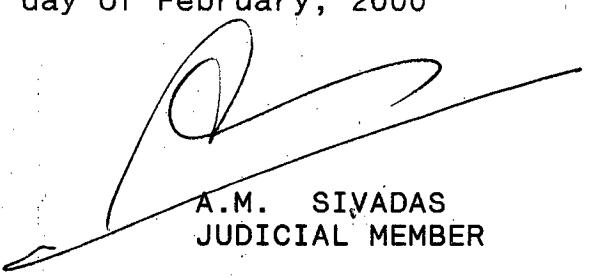
20. Learned counsel appearing for the respondents relying on Para 1705(2)(iii) of IREM submitted that only Railway employees working within a distance of 8 Kms from the periphery of municipal limits are entitled to House Rent Allowance at the rates admissible in that city even though they may not be residing within those municipal limits. What is stated in Para 1705(2)(iii) is that Railway employees working within a distance of 8 Kms from the periphery of the municipal limits of a qualified city should be allowed House Rent Allowance at the rates admissible in that city even though they may not be residing within those municipal limits. So, it is necessary to focus on the wordings 'from the periphery of the municipal limits of a qualified city'. It cannot be simply understood as put forward by the learned counsel for respondents as '8 Kms from the periphery of the municipal limits'. What is

'qualified city' in this case, I have already stated. In the light of what I have stated, the argument advanced by the learned counsel for respondents based on Para 1705(2)(iii) cannot be accepted.

21. Accordingly, A7, the impugned order, is quashed. It is declared that the applicants who are now working at Somanur Railway Station are entitled to the grant of House Rent Allowance at the rates as applicable to the 'qualified city' of Coimbatore Urban Agglomeration. Respondents are directed to pay the applicants House Rent Allowance applicable to Class 'B-1' cities with effect from the date of issuance of A1 or the date of joining at Somanur Railway Station whichever is later. This shall be done by the respondents within a period of two months from the date of receipt of a copy of this order. The applicants are entitled to an amount of Rs.1000/- (Rupees Thousand Only) as costs from the respondents.

22. The Original Application is disposed of as above.

Tuesday, this the 22nd day of February, 2000


A.M. SIVADAS
JUDICIAL MEMBER

ak.

List of Annexures referred to:

1. Annexure A7 - True copy of the letter No. P(B)500/C.Case/PGT dated 10-12-96 issued by the 4th respondent.
2. Annexure A1 - True copy of the Railway Board Order No.109/93 dated 19-7-93 issued by the Railway Board.
3. Annexure A8(1) - True copy of the Dependency Certificate No.103405/96-C4 dt. 10-10-96 issued by the District Collector, Coimbatore.