

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM ..

O. A. No.
T. A. No.

286

1990

DATE OF DECISION 17.7.90

K. Ramachandran _____ Applicant (s)

M R Rajendran Nair _____ Advocate for the Applicant (s)

Versus

DG, Light House, New Delhi and another Respondent (s)

V. Krishnakumar, ACGSC _____ Advocate for the Respondent (s)

CORAM:

The Hon'ble Mr. S. P. Mukerji, Vice Chairman

The Hon'ble Mr. N. Dharmadan, Judicial Member

1. Whether Reporters of local papers may be allowed to see the Judgement?
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of the Judgement?
4. To be circulated to all Benches of the Tribunal?

JUDGEMENT

HON'BLE SHRI S. P. MUKERJI, VICE CHAIRMAN

In this application dated 9.4.1990, the applicant who is working as Head Light Keeper, has challenged two ^{one} orders dated 12.12.1989 (Annexure IV) calling upon him to produce two sureties from two permanent Government servants for the grant of house building advance and the other order dated 9.3.1990 (Annexure-VII) sanctioning the first instalment of Rs. 32,000/- as 50% of the HBA of Rs. 64,000/-. So far as the first impugned order dated 12.12.1989 is concerned, the respondents have since withdrawn the same and are prepared to sanction the HBA without any sureties. Hence, we are concerned with the

impugned order at Annexure-VII regarding the quantum of HBA. The applicant's case is that in accordance with the HBA rules, he is entitled to 50 months' pay i.e. 82,000/- or 80% of the cost of construction whichever is less. He applied for the HBA on 9.8.1987. But the case ended up with the issue of aforesaid two impugned orders of December, 1989 and March, 1990. The applicant has not so far received any amount of HBA.

2. The contention of the respondents is that in accordance with the relevant rules, the applicant is eligible to an advance equal to 50 times basic pay i.e. Rs. 80,000., but since the land acquired by him where the house is to be constructed is located in a village, the eligible amount is restricted to 80% of the 50 times pay i.e. Rs. 64,000/-.

3. We have heard the learned counsel for both the parties and gone through the document carefully. The relevant provisions of HBA is quoted below:

- "(a) Not more than one advance shall be sanctioned under these Rules to a Government servant during his/her entire service.
- (b) Applicants may be granted an advance not exceeding an amount equal to 50 times the monthly basic pay including officiating pay (except where drawn in a leave vacancy) under the Central Civil Services (Revised Pay) Rules, 1986 but not pay drawn in a short or fixed term of deputation duty, subject to a maximum of Rs. 2.50 lakhs in cases covered by Rule 3(a) above and Rs. 60,000 in cases falling under Rule 3(b) above.

The actual amount of the advance to be sanctioned will be determined by the Ministry of Works, Housing and Supply on the basis of the plans and detailed specifications and estimates to be furnished by applicants justifying the amount of the advance applied for, and shall be restricted to the

estimated cost of construction/purchase within the ceiling amounts prescribed above and subject to the further condition that, in the case of construction in rural area, the amount of the advance will, in no case, exceed 80 per cent of the true cost of land and construction of the house or the true cost of enlarging living accommodation. The amount of the advance will further be restricted to the amount which a Central Government servant can repay partly from his gratuity/death-cum-retirement gratuity and partly by convenient monthly deductions from his pay, before the date of his superannuation, according to the Service Rules applicable to him....." (emphasis supplied)

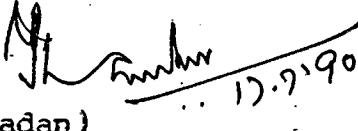
4. Even a casual reading of the aforesaid provision would convince anybody that the amount of HBA is restricted to 50 times the monthly basic pay and in a rural area, the amount will not in any case exceed 80 per cent the true cost of the land and construction of the house...." We are not able to persuade ourselves to accept the stand taken by the respondents that the ceiling of 80 per cent is applicable equally to the cost of land and construction as to the 50 times monthly basic pay.

5. In the facts and circumstances, we allow the application and set aside the impugned order at Annexure-VII dated 9.3.1990 and direct that the applicant should be sanctioned the House Building Advance limited to 80 per cent of the true cost of land and construction of house or 50 times monthly basic pay including officiating pay whichever is less. Considering the fact that the applicant's case has been pending with the respondents since 1983, since when the cost of construction has gone up, we direct that in computing the limit of 50 times monthly basic pay, the applicant's basic pay as on today

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should be taken into account. The 50 per cent of the HBA so determined should be disbursed to the applicant within one month from the date of communication of this order. The sanction however, will be subject to the applicant satisfying all other conditions prescribed in the rules.

6. There will be no order as to costs.


(N. Dharmadan)
Judicial Member
17.7.90


(S. P. Mukerji)
Vice Chairman
17.7.90

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