

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
ERNAKULAM

O. A. No. 316 1990  
T. A. No.

DATE OF DECISION 18.2.91

P. Murugan

Applicant (s)

Mr. V. G. Govindan Nair

Advocate for the Applicant (s)

Versus

Union of India represented by Respondent (s)  
Chairman, Telecom Commission, New Delhi & others

Mr. N. N. Sugunapalan, SCGSC

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? *Yes*
2. To be referred to the Reporter or not? *No*
3. Whether their Lordships wish to see the fair copy of the Judgement? *No*
4. To be circulated to all Benches of the Tribunal? *No*

JUDGEMENT

SHRI N. DHARMADAN, JUDICIAL MEMBER

The applicant is working as Junior Telecom Officer (Instructor) in the Regional Telecom Training Centre, Trivandrum hereinafter referred to as RTTC. After his transfer from Tamil Nadu, he joined Trivandrum in October, 1986. The Principal, RTTC, Trivandrum as per memo No. B-190/A/IV/94 dated 25.11.86 directed the applicant to submit his application for allotment of quarters (Annexure A-4). It contains the following warning:

"If no application for allotment of quarters is received from you on or before 28.11.1986 one of the vacant quarters will be allotted to you and concerned authorities intimated for deduction of HRA."

2. Due to family circumstances and personal difficulty, the applicant was not in a position to bring his family to Trivandrum from his native place. So he requested for grant

of exemption from allotment of quarters. He did not apply for the allotment of quarters as desired by the Principal. Despite this, the Principal passed the impugned proceedings Annexure A-1 dated 17.12.1986 giving the following instruction:

"With reference to the letter cited above, it is intimated that Quarter No. C-III/26 stands allotted to you. You may occupy the quarters with immediate effect under intimation to this office."

Copy of this letter was sent to DA(J), Office of the General Manager (Telephones), Trivandrum for issue of formal allotment orders.

3. Later, the applicant was granted exemption from occupying the quarters in RTTC upto June, 1987 effectively waiving the decision for allotment of quarters. But he was again instructed to occupy the quarters w.e.f. 1.7.1987 vide memo issued by the Principal dated 30.6.87. The applicant again requested for exemption and for grant of HRA which was answered by the Principal saying that his request is forwarded for drawal and disbursal of HRA only after the quarters allotted is occupied by him. Further representations were filed by the applicant. Ultimately he received Annexure A-2 communication dated 29.1.1990 from the Accounts Officer (PGT), Office of the Chief General Manager (Telecom) Trivandrum. Aggrieved by the Annexure-1 and 2, the applicant filed this application under section 19 of the Administrative Tribunals' Act for quashing these orders and for a direction to the third respondent to allow the drawal of HRA to the applicant w.e.f. 1.4.1988 with interest at the rate of 12% per annum till the date of the disbursement of the HRA.



..

4. The case of the applicant is based on two main grounds: (i) There is no compulsion for occupying the quarters on the basis of an order of allotment. Since the applicant had made a request for allotment and there was no formal allotment of quarters by competent authority he is not bound to occupy the quarters. He is entitled to HRA like others working in RTTC. (ii) Persons similarly situated like the applicant namely Muraleedhara Kaimal, Murugan and others in the Faculty were served with letters without any warning portion as in the case of the applicant and they are staying outside the RTTC complex and they continue to draw HRA from the date of joining RTTC without even filing an application for exemption. Hence, the action of the respondents is discriminatory and violative of Article 14 and 16 of the Constitution of India.

5. In support of the first ground, the applicant brought to our notice paragraph 4(a)(i) of the FR SR Part V, HRA and CCA. It is quoted below for reference:

"To those Government servants who are eligible for Government accommodation, the allowances will be admissible only if they have applied for such accommodation in accordance with the prescribed procedure, if any, but have not been provided with it, in places where due to availability of surplus Government accommodation, special orders are issued by the Ministry of Urban Development from time to time making it obligatory for employees concerned to obtain and furnish 'no accommodation' certificate in respect of Government residential accommodation at their place of posting. In all other places no such certificate is necessary."

He also relied on Annexure-10 of Rule 29 (modified) Rules for allocation and allotment of quarters prepared by the RTTC and submitted that only persons occupying functional posts for which quarters are to be attached by the post need ~~only~~ occupy the quarters. Such posts are Principal of Training Centres, Warden and Officer-in-charge of hostel at the Training Centre. Since the applicant is not occupying the functional posts, as listed under Rule 29 referred to above, it is not obligatory on the part of

the applicant to occupy the quarters.

The applicant admittedly never applied for the allotment of quarters in terms of para 4(a)(i) of the HRA&CCA Rules. On the other hand he had placed his personal difficulties before the Principal and requested for exemption which was granted to him even in spite of Annexure-I order, for some period. There is no reason why the extension of exemption was denied to him. There is also no formal application for allotment of quarters from the applicant in accordance with the procedure prescribed under the HRA & CCA Rules. In spite of this, the Principal has given an intimation of the allotment <sup>to the</sup> with a direction to issue formal allotment, of quarters / competent authority, but the competent authority had not so far issued any allotment order. Therefore, there is no evidence to show that the applicant had been given a specific offer to occupy the quarters from the competent authority <sup>as</sup> provided under the Rules apart from/

6. The learned counsel for the respondents brought to our notice clause b(i) of the same paragraph 4 of HRA & CCA Rules referred to above and submitted that the applicant has refused the allotment of accommodation and hence he is not eligible for allowances admissible under the HRA Rules. But the statement in the counter affidavit relied on in this connection is quoted below:

"Principal, RTTC TVM controls the RTTC Complex and the staff quarters therein, and only formal allotment order for staff quarters are issued by by Circle Office on receipt of the specific requests from the officials. As the official did not make a formal request for quarters inspite of repeated reminders as admitted by him in his affidavit, formal orders were not issued by CGMT."

7. From the above facts and circumstances of the case, it is clear that there is no valid offer from the competent authority to the applicant for allotment of

8/

..

quarters to him so as to express his refusal. Hence the aforesaid provision of clause b(i) of para 4 of HRA & CCA Rules would not apply in the instant case.

8. The applicant specifically pleads that allotment of quarters and their regulations in RTTC are governed by separate Rules framed by RTTC. Rule 29 is contained in Annexure A-10. According to this/only Principals in charge of Training, Warden, Officer in charge of Hostel are persons who are holding functional posts and they need only reside inside RTTC quarters on compulsory basis. So far as other faculty members are concerned it is only optional. This contention of the applicant had not been answered except stating " The allotment rules of staff quarters furnished by the official in para 5(i)(ii) and (iii) etc. have no particular relevance to this case." We are unable to find out why the Rules framed by RTTC have no bearing in this case. So we do not propose to go along with the learned counsel for the respondents in regard to the first contention raised by the applicant.

9. The next contention raised by the applicant is hostile discrimination. He ~~xxx~~ stated in the application that the applicant has been arbitrarily singled out for the purpose of hostile discriminatory treatment in the matter of dealing with the allotment of quarters and making provision for the grant of HRA. He submitted that other Instructors, who had not applied for the quarters, are not compelled to occupy the quarters and to them HRA respondents. is being paid by the/ He has given a list of such Instructors in Annexure A-5 representation dated 25.8.87

" 1. Sri G.H.K. Sharma A. E. Lecturer  
2. Sri E. S. Krishna Pillai -do-  
3. Sri S. D. Potti -do-  
4. V. J. Iyer -do-  
5. S. Hariharan -do-  
6. George Oommen -do-

7. P. G.Pappachan	A. E. Lecturer
8. T. V. George	-do-
9. N. Joyson	-do-
10. K. P. Hariharan	MORSE Instructor
11. Smt. Omana Renga	JE Instructor
12. Smt. Romila Padmini	JAO Instructor "

10. The specific case of Shri Muraleedhara Kaimal who joined RTTC on 18.3.1987 was pointed out in the course of the arguments with supporting documents. He was given the letter of allotment containing ~~xxx~~ only words directing him to submit application for one 'C' type vacant quarters unlike in the case of the applicant to whom Annexure A-4 has been issued with a warning clause in the following manner:

"if no application for allotment of quarters is received from you on or before 28.11.85 one of the quarters will be allotted to you and concerned authorities intimated for reduction of house rent."

But others were not given letter with this type of warning. Annexure A-15 is a letter issued to Shri Kaimal. It reads as follows:

"You have joined the RTTC, Trivandrum as A.S.T.T. (Instructor) on 18.3.87. RTTC, Trivandrum is a residential complex and on date a number of 'C' type quarters are lying vacant. You may therefore submit your application for one of the 'C' type vacant quarters (application form enclosed)"

There is no explanation for this differential treatment in the matter of issue of letter to the applicant and others including Shri Kaimal, Murugan etc. who are doing the same work in the RTTC. According to the applicant there are so many other members who are staying outside RTTC complex in spite of the facility of quarters available and they are being paid HRA without any condition. This alone is sufficient according to the applicant to satisfy this Tribunal that the respondents clearly discriminated the applicant against other similarly placed employees in the training complex. The administrative head in the RTTC is expected to treat his subordinates uniformly and treat

fm

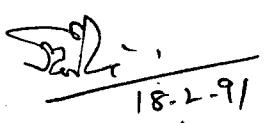
them in an identical manner in the matters of allotment of quarters. There is no convincing explanation for the differential treatment in this behalf. The answer given by the respondents in the counter affidavit so far as the aforesaid discrimination is that Shri Murugan was preferentially treated by allowing him to stay outside from 10.11.1986 to 31.3.1988 even though he has not owned any residence in Trivandrum nor he was given local residential address. All officers except Shri Jayson and Muraleedhara Kaimal mentioned in Annexure-5 of the application were having their own house at Trivandrum. The relevant portion in the counter affidavit reads as follows:

"Shri Murugan was given preferential treatment by allowing him to stay outside from 10.11.86 to 31.3.88 even though he was not having a residence in Trivandrum nor he has given a local residential address. All officials except Sri Jayson was staying outside when the Training Centre was functioning in the old premises. Sri Muralidhara Kaimal was a staff member of CTTC Trivandrum and was working in RTTC on a working arrangement."

This explanation does not appear to be satisfactory especially when the allegation is that number of officers similarly situated are enjoying exemption even without any formal request. We are satisfied that the applicant is singled out in this behalf and hence there is some force in the second ground also.

11. Having considered the facts and circumstances of the case we are of the view that the impugned orders are liable to be quashed and accordingly we quash the same. The applicant be given house rent allowance applicable to him from 1.4.1988/within three months from the date of receipt of this order. The application is allowed but there will be no order as to costs.

  
(N. DHARMADAN) 18.2.91  
JUDICIAL MEMBER

  
18.2.91  
(S. P. MUKERJI)  
VICE CHAIRMAN