

(3)

CAT/J/12

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

~~NEW BOMBAY BENCH~~
NEW BOMBAY BENCH

O.A. No. 180/88

198

~~Enacted~~

DATE OF DECISION 15/7/1988

Shri M.P.A. Kurup. Petitioner

Applicant in person. Advocate for the Petitioner(s)

Versus

Council of Scientific and Industrial Research Anusandhan Bhavan. & 2 OTHERS. Respondent

Mrs. Manezes. Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. B.C. GADGIL, HON'BLE VICE CHAIRMAN.

The Hon'ble Mr.

1. Whether Reporters of local papers may be allowed to see the Judgement? *- yes*
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of the Judgement? */ no*
4. Whether it needs to be circulated to other Benches of the Tribunal?

(4)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW BOMBAY BENCH, NEW BOMBAY

Original Application No.180/88.

Shri M.P.A. Kurup,
E-7, Sector 9, CBD,
Belapur,
NEW BOMBAY.

.. Applicant

V/s.

1. Council of Scientific and
Industrial Research Anusandhan
Bhavan, Rafi Marg,
NEW DELHI,1.
2. Director,
Central Scientific Instruments
Organisation,
CHANDIGARH.
3. Scientist-in-Charge,
Service & Maintenance Centre,
Central Scientific Organisation,
Sahakar Bhavan, Narayan Nagar,
Ghatkopar (West),
BOMBAY-400086.

.. Respondents.

Coram : Hon'ble Vice Chairman, Shri B.C. Gadgil.

Appearances :

Applicant in person and
Mrs. Menezes, advocate
for the respondents.

ORAL JUDGMENT :

DATED : 15.7.1988

(Per Shri B.C. Gadgil, Vice Chairman)

This is a very short matter pertaining to the grant of House Building Advance. The applicant is working as a Scientist Grade 'C' in the Organisation known as C.S.I.R. It is a Society having the separate juridical status. The provisions of the Administrative Tribunals Act are made available to the employees of the said society.

2. In 1985 the applicant made an application for House Building Advance. The Council has framed rules known as C.S.I.R. H.B.A. Rules. Those rules permit the grant of House Building Advance. An amount of Rs.40,800/- was initially sanctioned, however, the said sanction was revised to Rs.1,00,000/-. The amount was sanctioned as the applicant was to purchase a flat from CIDCO. The price of the flat is Rs.2,10,800/-. The grievance of the applicant is that on account of the revision of pay scales based upon the IVth Pay Commission the

Bel

(S)

applicant is entitled to an additional advance of Rs.75,000/-. He made a request to that effect to the organisation. The request was rejected and hence this application.

3. The respondents have filed their reply today, a copy of reply is given to the applicant. The applicant informed me that the reply may be taken on record and the matter be heard today. The respondents contention is that the HBA payable to the employees of the Council is governed by the C.S.I.R. H.B.A. Rules and that there are certain limitation prescribed by Rules 7,8,9 and 10. The respondents contend that the maximum amount permissible is Rs.1,25,000/- subject to the repaying capacity of the employee. It is not in dispute that the applicant would be retiring in 1990, that is after 10 years but before 20 years. The repaying capacity is determined under Rule 10 to be 60% of the basic pay and 80% of the D.C.R.G. It was contended by the respondents that on the basis of the calculations made in accordance with these rules, the applicant would be entitled to a total HBA of Rs.1,11,000/-. However, it was submitted that the advance can be sanctioned, if the funds are available. The respondents are not sure as to whether the funds are available. Another contention is that the applicant has to furnish two sureties. However, during the course of the arguments it was frankly stated on behalf of the respondents that only one surety is prescribed under the rules. Another contention is that the applicant was liable to execute a mortgage of the flat in favour of the C.S.I.R. within 3 months from the grant of advance and this has not been done.

4. The applicant urged that his repaying capacity has to be calculated on the basis of the revised pay scales. It was contended that on such calculation the applicant would be entitled to more than Rs.1,25,000/-. It was however, argued on behalf of the respondents that the repaying capacity is to be calculated on the basis of unrevised pay scales. It was urged by the applicant that the Government of India has sanctioned rules which permit the determination of paying capacity on the basis of revised pay scales. However, Office Memorandum No. I/17015/6/83/H.III dt. 27th October, 1986 specifically states that pending the decision on the revised eligibility conditions the pay

Belh

would be the pay unrevised pay that would have been drawn by the Government employee. In view of this provision, I do not think that the applicant would be right in contending that his paying capacity should be on the basis of his revised pay scales of Rs.3,500/- instead of un-revised pay scale of Rs.1,400/-.

5. It was frankly stated on behalf of the respondents that on the basis of the rules as exist the applicant would be entitled to the total advance of Rs.1,11,000/-. However, a submission was made before me that the applicant is not attending duties from September, 1987 and he is not being paid any salary. The applicant replies that he has challenged this transfer by filing an application in this Tribunal and that the status quo order has been issued. The effect of the status quo order will be decided in that Original Application. But the fact remains that the applicant is not on duty and is not getting any salary. This aspect also has to be borne in mind while deciding the present application.

6. As far as the execution of mortgage is concerned there is much substance in the contention of the applicant that the mortgage can be executed only after the CDCO would transfer the flat in the name of the applicant and such transfer would be depending upon the applicant paying the entire price amount. In this background it will be appropriate to pass an order directing the applicant to execute the mortgage within 3 months as soon as the flat is transferred in his name by CDCO. After taking into account the circumstances mentioned in earlier paragraphs I think that an amount of Rs.10,000/- may be granted to the applicant as an additional HBA subject to the availability of funds. Hence I pass the following order :

ORDER

The respondents are directed to grant an additional advance of Rs.10,000/- to the applicant subject to the availability of the funds on a condition that the applicant gives an undertaking to the respondents that he would pay the remaining

Bch

(2)

-: 4 :-

price of the flat to the CIDCO within 6 months from today.
To be more specific, the advance will not be paid if the
undertaking is not given. Parties to bear their own costs
of this application.

B. C. Gadgil

(B.C. GADGIL)
VICE CHAIRMAN.