

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, MUMBAI

ORIGINAL APPLICATION NO. : 452/2001

Date of Decision : 27.3.2003

Shri P.K.Sidharthan

Applicant

Shri B.Ranganathan

Advocate for the
Applicant.

VERSUS

Union of India & Ors.

Respondents

Shri R.R.Shetty

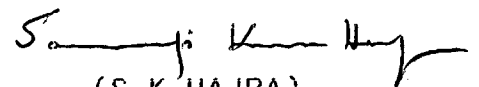
Advocate for the
Respondents

CORAM :

The Hon'ble Shri A.V.Haridasan, Vice Chairman

The Hon'ble Shri S.K.Hajra, Member (A)

- (i) To be referred to the reporter or not ? No
- (ii) Whether it needs to be circulated to other No
Benches of the Tribunal ?
- (iii) Library ✓


(S.K.HAJRA)
MEMBER (A)

mrj.

CENTRAL ADMINISTRATIVE TRIBUNAL

MUMBAI BENCH, MUMBAI

OA.NO.452/2001

Dated this the 27 day of 03 2003.

CORAM : Hon'ble Shri A.V.Haridasan, Vice Chairman

Hon'ble Shri S.K.Hajra, Member (A)

P.K.Sidharthan,
MES No.104676
Ref/Mech.H.S.1,
Office of the AGE (E/M-II),
M.E.S.Karanja,
Raigad Dist.

...Applicant

By Advocate Shri B.Ranganathan

vs.

1. Union of India
through the Chief Engineer (N.W.),
Assaye Building, Colaba,
Mumbai.
2. The Commander Works Engineer
Karanja, P.O.Naval Station
Karanja, Raigad Dist.
3. G.E.(Naval Works), Karanja,
P.O. Naval Station, Karanja,
Raigad Dist.
4. Assistant Accounts Officer,
C/O G.E. Naval Works, Karanja,
P.O. Naval Station, Karanja,
Raigad Dist.

...Respondents

By Advocate Shri R.R.Shetty

..2/-

O R D E R

{Per : Shri S.K.Hajra, Member (A)}

The applicant has filed this OA. seeking the following reliefs :-

"8 (i) The Hon'ble Court be pleased to strike down the impugned order at Exhibit-A dated 25.9.2000 as bad in law.

(ii) This Hon'ble Tribunal be pleased to hold and declare that the applicant and his wife are working/stationed at two distinct and different stations.

(iii) This Hon'ble Tribunal be pleased to hold and declare that the applicant is eligible and entitled to draw H.R.A. from the date 22.5.1994 when his wife was transferred from KVS, Karanja or from May 1994 when his wife has surrendered and vacated the Govt. quarters which was allotted to her and was held by her.

(iv) In the alternative this Hon'ble Tribunal be pleased to hold and declare that the applicant is entitled and liable to be granted or permitted to draw HRA from January 1997 when he has applied in writing for the same.

(v) This Hon'ble Tribunal be pleased to order and direct the respondents, to grant and or allow the applicant to draw H.R.A. at the relevant rate with effect from 22.5.1994 or in lieu and in the alternative with effect from January,1997.

(vi) This Hon'ble Tribunal be further pleased to order and direct the respondents to pay interest at the rate of 18% on the arrears of the H.R.A. granted as per clause (v) above.

(vii) The cost of this application be granted in favour of the applicant from the respondents in their official capacity if no on their personal capacity for their willful neglect and or omission in performing their duty resulting in loss and hardship to the applicant.

(viii) Any other order in the interest of injustice as justice, equity and good conscience would warrant be passed in favour of this applicant."

..3/-

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2. Shri B.Ranganathan, learned counsel for the applicant argued as follows :- The applicant who is an employee of Military Engineering Service, Karanja was living in the Government quarters allotted to his wife, a Central Government employee, in Colaba and commuting to Karanja which is 80 Kms. from Mumbai. The applicant rented a house in Uran, Raigad Dist. in January, 1997 in which he had been residing since then. It was incumbent on the respondents to grant the applicant H.R.A. w.e.f. 18.1.1997, the date he has been living in a Station different from Mumbai in which his wife was allotted quarters. Karanja in which the applicant was working does not form part of Mumbai Urban Agglomeration. Therefore, the denial of H.R.A. to the applicant who had rented accommodation in a Station different from Mumbai is illegal and arbitrary.

3. The learned counsel for the applicant relied upon the order dated 7.6.2001 in OA.No.335/97 of the Tribunal and judgement dated 18.2.2002 in Writ Petition No.2430/2001 of High Court of Judicature at Bombay in support of his contention that Karanja is not the same station as Mumbai.

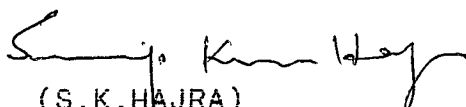
4. Shri R.R.Shetty, learned counsel for the respondents contended as follows :- According to Rule 5 (c) (iii) of H.R.A. Rules, the applicant is not entitled to H.R.A. since his wife was allotted accommodation at Mumbai. Mumbai and Karanja are to be construed as same station. The phrase "same station" includes all places which are treated as contiguous to the qualified city/town. Panvel, Uran and Karanja fall in the scale of H.R.A. applicable to Mumbai.


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..4/-

5. We heard both sides and perused the records. The contention of the applicant that Mumbai and Karanja are not to be treated as same station is tenable. This Tribunal in order dated 7.6.2001 in OA.No.335/97 held that Karanja is part of Tahsil Uran and is not covered by Urban Agglomeration (Greater Mumbai). The Bombay High Court in judgement dated 18.2.2002 in W.P.No.2430/2001 held that Karanja does not fall in Uran agglomeration of Mumbai and that the allotment of quarter to the wife of the respondent (in the Writ Petition) is not at the same place and that since the respondent and the wife are not working at the same station, the respondent is entitled to House Rent Allowance. In short, both Bombay High Court and this Tribunal held that H.R.A. is payable to employees residing at Karanja, a different station from Mumbai even if his spouse had been allotted a Government quarter in Mumbai. The judgements of Bombay High Court and of the coordinate Bench of the Tribunal on the same question of law and fact as involved in this present OA. are applicable to this case. Karanja which is about 80 kms. away from Mumbai can not be treated as contiguous to Mumbai. The argument of the respondents that Karanja and Mumbai are the same Station is not tenable. The applicant who had rented a building outside Mumbai while working in Karanja is entitled to H.R.A. in accordance with the H.R.A. Rules.

6. For the reasons given above, letter dated 25.9.2000 (Annexure- 1) is set aside. The respondents are directed to pay the applicant House Rent Allowance with effect from January, 1997 onwards at the rates applicable as per Rules. The amount of HRA due should be paid to the applicant within two months from the date of receipt of a copy of this order. The OA. is allowed partly. No costs.


(S.K. HAJRA)
MEMBER (A)


(A.V. HARIDASAN)
VICE CHAIRMAN

mrj.