

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH

Original Application No: 257/94

Date of Decision: 24.6.1999

Shri Vasant Ramchandra Salvi Applicant.

Advocate for
Applicant.

Versus

—Union of India and others. Respondent(s)

Shri V.D. Vadhavkar, for Advocate for
Shri M.I. Sethaa. Respondent(s)

CORAM:

Hon'ble Shri. Justice R.G.Vaidyanatha, Vice Chairman

Hon'ble Shri. D.S. Bawejia. Member (A)

(1) To be referred to the Reporter or not?

(2) Whether it needs to be circulated to other Benches of the Tribunal?

R. G. Vaidyanatha
(R. G. Vaidyanatha)
Vice Chairman

NS

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH 'GULESTAN' BUILDING NO:6
PREScot ROAD, MUMBAI:1

Original Application No. 257/94

Thursday the 24th day of June 1999.

CORAM:Hon'ble Shri Justice R.G.Vaidyanatha, Vice Chairman

Hon'ble Shri D.S. Baweja, Member (A)

Vasant Ramchandra Salvi
Residing at
708/72, Sector 2,
Antop Hill,
Bombay.

... Applicant.

By Advocate Shri S.R.Atre.

V/s.

1. Union of India through
The Secretary,
Ministry of Finance
Department of Economic
Affairs, South Block,
New Delhi.

2. The General Manager,
India Government Mint,
Shahid Bhagat Singh Marg.
Bombay.

... Respondents!

By Advocate Shri V.D.Vadhavkar for Shri M.I. Sethna.

O R D E R (ORAL)

(Per Shri Justice R.G. Vaidyanatha, Vice Chairman)

This is an application filed by the applicant under Section 19 of the Administrative Tribunals Act. The respondents have filed reply. This case was fixed for final hearing today and notices were sent to the applicant and his counsel. The learned counsel for the applicant has sent a letter dated 23.6.1999 stating that he has returned the papers to the applicant and he has no instructions to appear in the case. Case called out none, appeared

on behalf of the applicant. After hearing the learned counsel for the respondents and on going through the materials on record, we find that the point is clearly covered by the decision of the Apex Court. Hence there is no necessity to issue one more notice to the applicant.

2. The short point involved in this O.A. is whether the official who is not getting HRA since he is occupying the Government quarter is entitled to notional HRA for the purpose of fixing Over Time Allowance?

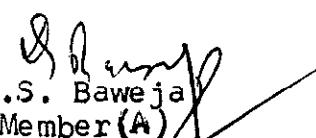
The applicant is working in the India Government Mint at Bombay. Admittedly he is in occupation of Government quarter. Therefore he is not getting HRA as per rules. He is entitled to Over Time Allowance on the basis of his wages. The question is whether wages including notional HRA, when HRA is not paid since the official is occupying Government quarter, should be calculated for payment of Over Time Allowance.

The respondents contention is that when the applicant is residing in Government Accommodation and not getting HRA, the amount of HRA cannot be taken into consideration even notionaly for fixing Over Time Allowance.

3. The question is no longer res-integra and covered by direct authority in the case of Union of India and others V/s. Suresh C. Baskery

and others reported in 1996(1)SC SLJ 200. That was also a case in which the workers working in India Government Mint wanted same benefit of notional ^{be included in} HRA to the wages for calculating Over Time Allowance. In that case The Calcutta Bench had allowed the claim of the workers and on appeal the Supreme Court allowed the appeal and observed that the officials who are in occupation of Government quarter are not getting HRA then HRA cannot be taken into consideration even notionaly for fixing Over Time Allowance. In view of the clear authority of the Supreme Court, the present claim in the O.A. is not sustainable.

4. In the result the O.A. is dismissed. No order as to costs.


(D.S. Baweja)
Member(A)


(R.G. Vaidyanatha)
Vice Chairman

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