

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH:
AT HYDERABAD

O.A.No. 373 of 1987:

Date of Order: 05/02/1990

V.Sai Prasad Sastry

..Applicant

and

represented by the Secretary to Govt., Dept. of Expenditure, Ministry of Finance, New Delhi
Union of India and others ..Respondents

For Applicant: Mr. V. Venkataramiah, Advocate

For Respondents: Mr. N. Bhaskar Rao, Addl. CGSC

C O R A M:

HON'BLE SHRI B.N.JAYASIMHA: VICE CHAIRMAN

HON'BLE SHRI D.SURYA RAO: MEMBER (JUDICIAL)

(Judgment delivered by Hon'ble Shri B.N.Jayasimha, VC)

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1. The applicant herein is an employee of the Income Tax Department working as Inspector at Hyderabad. The applicant contends that consequent on recommendations made by the IV Pay Commission, orders were issued by the Government of India in O.M.No. 11013/2/86-E.II(B) dated 23-9-1986 relating to grant of House Rent Allowance, City Compensatory Allowance, etc. So far House Rent Allowance (HRA) is concerned, it is contended that this memo provides for payment of HRA at the revised rates to employees residing in their own houses or rented accommodation. HRA is not admissible to employees who have been allotted or residing in Government owned accommodation or hired accommodation. It is stated that

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a licence fee is recovered from the employees in occupation of Government owned or hired accommodation in accordance with the provisions of FR 45(a). The said licence fee consists of interest on capital cost at a given rate of interest, Municipal and other taxes in the nature of house or property tax payable by Government in respect of the residence and charges for both ordinary and special maintenance and repairs. The applicant contends that for the purpose of HRA payment, those employees who are occupying the Government accommodation and those occupying private/owned accommodation cannot be differentiated. It is contended that the classification is arbitrary and violative of Articles 14, 16 and 300-A of the Constitution of India. that He, therefore, seeks a declaration that the impugned order dated 23-9-1986 giving the benefit of HRA only to employees occupying accommodation other than Government owned/hired accommodation is void.

2. On behalf of the respondents, a counter has been filed denying the contentions of the applicant. It is stated that the employees have been classified properly into two classes viz., Employees occupying their own houses and staying in rented accommodation as distinguished from the category who are allotted Government accommodation. It is contended that such employees pay only a nominal licence fees as per FR 45(IV)(a) and they form a distinct and separate class by themselves. It is further stated that the applicant has an option to occupy the Government accommodation or take up private accommodation and there is no compulsion. In these circumstances, it is contended that there is no merit in this case.

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3. We have heard the learned counsel for the applicant and Shri Naram Bhaskar Rao, Standing Counsel for the Department.

4. F.R.45-A(IV) reads as follows:-

" IV. When Government supplies an officer with a residence leased for requisitioned or owned by Government, the following conditions shall be observed:-

(a) The scale of accommodation supplied shall not, except at the officer's own request, exceed that which is appropriate to the status of the occupant.

(b) Unless in any case it be otherwise expressly provided in these rules, he shall pay--

(i) licence fee for the residence such licence fee being the standard licence fee as defined in Clause III above or 10 per cent of his monthly emoluments, whichever is the less

(Provided that in respect of officers who draw pay in a revised scale under the Central Civil Services (Revised Pay) Rules, 1960, and whose emoluments (including dearness pay) are below Rs.220 per mensem, licence fee shall be recovered on the basis of standard licence fee or 7½% of such emoluments, whichever is less, but the net emoluments after deduction of licence fee of those officers who are in receipt of emoluments of Rs.220 per mensem (including dearness pay) and above shall not be less than Rs.202.55 per mensem.)

Provided further that in respect of officers, who draw pay in a revised scale under the Central Civil Services (Revised Pay) Rules, 1973, and whose emoluments are below Rs.300 per mensem, licence fee shall be recovered on the basis of standard licence fee or 7½% of such emoluments, whichever is less, but the net emoluments after deduction of licence fee, of those officers who are in receipt of emoluments of Rs.300 per mensem and above, shall not be less than Rs.276.60 per mensem:)

It is seen from the above F.R. that persons, who occupy Government accommodation are required to pay licence fee for

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the residence, such licence fee being the standard licence fee or 10 percent of their monthly emoluments, whichever is less, and they are not entitled for H.R.A. There is no compulsion for an employee to accept the allotment of Govt. accommodation and non-acceptance of such allotment does not deprive him of payment of H.R.A. In other words, an employee has an option whether to continue to receive H.R.A. by living in his own house/rented portion or to accept the Government accommodation foregoing the H.R.A. In view of this, the question of any hostile discrimination in his case does not arise.

5. In the circumstances, we do not find any merit in this case. Accordingly we dismiss the O.A. No order as to costs.

(Dictated in Open Court)

Dated: 5th Feb., 1990

B.N.Jayamurthy
(B.N.JAYASIMHA)

VICE-CHAIRMAN

D.Surya Rao
(D.SURYA RAO)

MEMBER (JUDICIAL)

S.Venkateswara Rao
DEPUTY REGISTRAR (J)
8/1/90

TO:

1. The Secretary to Government, (Union of India) Department of Expenditure, Ministry of Finance, New Delhi.
2. The Commissioner of Income Tax, Tax Recovery office, Ayakar Bhavan, L.B. Stadium Road, Hyderabad, A.P.-I.
3. The Asst.Engineer-cum-Estate Manager, C.G.General Pool NSR Residential accommodation, Gachi Bowli, Hyderabad.
4. One copy to Mr.V.Venkataramaiah, Advocate, 1-10-126, Ashok Nagar, Hyderabad-500 020.
5. One copy to Mr.N.Bhaskara Rao, Addl.CGSC, CAT, Hyderabad.
6. One spare copy.

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*W.M.Jayamurthy
S.V.Rao*