

(67)

Central Administrative Tribunal

HYDERABAD BENCH : AT HYDERABAD

O.A. No. 195/91.

Date of Decision: 14th Jan 1992

-T.A.No.-

U.S.R.Vittal & 30 others

Petitioner.

Shri T.Jayant

Advocate for the
petitioner (s)

Versus

Union of India, Rep. by the Secretary,
Min. of Communications, New Delhi-1&4 others

Respondent.

Shri N.Bhaskara Rao, Addl. CGSC

Advocate for the
Respondent (s)

CORAM :

THE HON'BLE MR. R.Balasubramanian : Member(A)

THE HON'BLE MR. C.J.Roy : Member(J)

1. Whether Reporters of local papers may be allowed to see the Judgement ? *Ys.*
2. To be referred to the Reporter or not ? *Ys.*
3. Whether their Lordships wish to see the fair copy of the Judgment ?
4. Whether it needs to be circulated to other Benches of the Tribunal ?
5. Remarks of Vice Chairman on columns 1, 2, 4
(To be submitted to Hon'ble Vice Chairman where he is not on the Bench)

HRBS
M(A).

HCJR
M(J).

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD.

O.A.No.195/91.

Date of Judgment 14th Jan 1992

1. U.S.R.Vittal
2. V.Ramulu
3. M.V.L.Narasimharao
4. T.Dakshinamurthy
5. M.Pichaiah
6. S.Bhimasankaram
7. Y.Mohan Rao
8. P.Purnachandrarao
9. S.K.Masthan
10. Ch.Durga Prasada Rao
11. P.Sambasiva Rao
12. E.Prasada Rao
13. E.Philloman
14. K.Sambi Reddy
15. V.Subba Rao
16. S.Seshagiri Rao
17. M.K.Ramaiah
18. N.S.R.Koteswara Rao
19. Sk. Meera Hussain
20. T.Venkataramaiah
21. J.Koteswara Rao
22. P.Mastan
23. G.Venkatesu
24. Ch.Nageswara Rao
25. B.R.K.Murthy
26. N.Venkateswarlu
27. P.Giriah
28. P.Subba Rao
29. S.Siviah
30. N.Ravi Kumar
31. B.L.V.Srinivasarao .. Applicants

Vs.

1. Union of India,
Rep. by the Secretary,
Min. of Communications,
New Delhi-1.
2. Director-General,
Dept. of Posts,
New Delhi-1.
3. Director-General,
Dept. of Telecommunications,
New Delhi-1.
4. Sr. Supdt. of Post Offices,
Guntur Division,
Guntur-522007.
5. Telecom. Dist. Manager,
Guntur-522007. .. Respondents

Counsel for the Applicant : Shri T.Jayant

Counsel for the Respondents : Shri N.Bhaskara Rao, Addl. C

CORAM:

Hon'ble Shri R.Balasubramanian : Member(A)

Hon'ble Shri C.J.Roy : Member(J)

[Judgment as per Hon'ble Shri R.Balasubramanian, Member(A)]

This application has been filed by Shri U.S.R.Vittal & 30 others posted at Mangalagiri against the Union of India, Rep. by the Secretary, Min. of Communications, New Delhi-1 & 4 others under section 19 of the Administrative Tribunals Act, 1985. The relief sought for is a direction to the respondents to continue to draw HRA and CCA at Vijaywada rates from 1.7.90 onwards as per Presidential Order No.11023/1/84-E.II(B) dated 20.1.89 by declaring the impugned order No.D/24 dated 4.9.90 passed by the 4th respondent as illegal.

2. The applicants are working at Mangalagiri, located 8 KMs away from Vijaywada. Mangalagiri depends on Vijaywada for essential commodities and based on this the applicants were getting HRA and CCA at Vijaywada rates till 31.1.85. When it was stopped w.e.f. 1.2.85, the applicants filed O.A.No.433/87. In the order dated 4.11.88 in this O.A. this Tribunal ordered the respondents to consider the relevant factors and the observations made in the order and pass an order on the admissibility of HRA to the employees working in Mangalagiri from 1.2.85 onwards within a period of two months from the date of receipt of this order. The observations made were that if the conditions laid down in the Ministry of Finance O.M. No.F.2(37)-E.II(B)/64 dated 27.11.65 were fulfilled the applicants should get the Vijaywada rates on the same analogy as Ghaziabad and Gurgaon were getting the Delhi rates. Based on the judgment, the 4th respondent directed the Postmaster, Mangalagiri to draw HRA to the applicants at Vijaywada rates from 1.2.85 communicating a copy of the order of the Ministry of Finance dated 20.1.89 which was issued in pursuance of the Tribunal judgment. While so, the 4th respondent herein, in the absence of any orders, straightway issued the impugned order dated 4.9.90 directing the Postmaster, Mangalagiri to draw HRA for the staff at Mangalagiri only at the rate of 'C' class town

w.e.f. 1.7.90. Aggrieved, the applicants have approached this Tribunal ~~which~~, At the time of admission of the O.A. on 26.2.91, ~~the Bench~~ had passed an interim direction that the respondents shall not recover any excess amount paid till further orders.

3. The respondents have filed a counter affidavit and oppose the application. The facts of the case are not disputed. Their only contention is that after the issue of the Ministry of Finance letter dated 20.1.89, referred to earlier, further orders were issued by the Ministry of Finance, Department of Expenditure vide O.M.No.21011/10/87/E.II(B) dated 5.7.90 upgrading Mangalagiri as 'C' class town for purpose of drawal of HRA. The said orders which came into effect from 1.7.90 were communicated by the 2nd respondent to the 4th respondent ~~.....~~ and in accordance with the orders of the 2nd respondent the 4th respondent directed the Postmaster, Mangalagiri to act on that letter and restrict the HRA at the rates of 'C' class towns applicable to Mangalagiri. Based on this, the 4th respondent had stopped the allowance at ~~Vijaywada~~ rates. The applicants thereupon filed O.S.No.142/90 in the Court of Munsif Magistrate, Mangalagiri and the case was finally dismissed by the court on 14.12.90. Upon this, the Postmaster, Mangalagiri was directed by the 4th respondent vide his letter dated to implement the orders of the Ministry of Finance dated 5.7.90. The applicants had subsequently filed this O.A.

4. We have examined the case and heard the rival sides. The main thrust in the argument of the respondents is that with the issue of memo dated 5.7.90 upgrading Mangalagiri as 'C' class town the situation has changed and, therefore, they ^{only} have to apply 'C' class town rates to Mangalagiri and not the ~~Vijaywada~~ rates. Pursuant to the judgment dated 14.11.88 of this Tribunal in O.A.No.433/87 the Govt. of India issued the memorandum dated 20.1.89. In the said memorandum it was indicated that the President was pleased to decide that the Central Government employees having their place of duty

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in Mangalagiri may be granted HRA at the rates applicable to those posted within the classified town of Vijaywada in terms of O.M.No.F.2(37)/E.II(B)/64 dated 27.11.65 amended from time to time. It was also indicated that those orders took effect from 1.2.85 and shall remain in force till issue of further orders. We have ~~only~~ therefore ^{only} to see whether there is any further order on this specific subject relating to Mangalagiri. The respondents contend that the order dated 5.7.90 categorising Mangalagiri as a 'C' class city w.e.f. 5.7.90 is the further order. We do not accept this contention of the respondents for the following reasons:

(a) While the memorandum containing the Presidential decision dated 20.1.89 specifically states that the order shall be in force till further orders there is no indication whatsoever in the memorandum dated 5.7.90 that consequent to the classification of Mangalagiri as a 'C' class station the orders dated 20.1.89 shall cease.

(b) The orders dated 20.1.89 are issued in terms of O.M. dated 27.11.65 referred to therein. But the order dated 5.7.90 classifying Mangalagiri is based on different ^{Consideration} ~~contentions~~ as seen from para 3 of the order which states:

"These orders take effect from 1.7.90 and shall be reviewed after the 1991 Census figures are available."

^{Consideration}
The ~~contentions~~ in the two orders are thus different. Therefore, the order dated 5.7.90 cannot be treated as 'further order' to 20.1.89.

We also find from an extract of page 50 of the 1990 Edition of F.R. & S.R. Part V relating to HRA and CCA - Allowances at specific stations and localities at page 27 to the material papers of the application, ~~It is seen here~~ that Mangalagiri has been included as one of the special stations with reference to Ministry of Finance memorandum dated 20.1.89. Mangalagiri is one of the 13 stations which also include Ghaziabad and Grugaon. There is no specific order shown to us taking away ^{Station} this special ~~status~~ of Mangalagiri consequent to classification

Copy to:-

1. Secretary, Ministry of Communications, Union of India, New Delhi-1.
2. Director-General, Department of Posts, New Delhi-1.
3. Director-General, Department of Telecommunications, New Delhi.
4. Senior Superintendent of Post Offices, Guntur Division, Guntur.
5. Telecom District Manager, Guntur-522007.
6. One copy to Shri. T.Jayant advocate, H.No.17~~17~~ B, Srinagar colony, Gaddiannaram, P&T colony, Dilsukhnagar, Hydbad.
7. One copy to Shri. N.Bhaskar Rao, Addl.CGSC, CAT, Hyd.
8. Copies to reporters as per the standard list of C.A.T. Hydbad.
9. One spare copy.

Rsm/-

of Mangalagiri as 'C' class. ~~It also stands to reason that~~ If classification as 'C' class takes away the special status then Ghaziabad and Gurgaon which are already 'C' class stations could not have been included in the list of special stations. In view of this, it is clear to us that the classification of Mangalagiri as 'C' class has not altered the situation stated in the Ministry of Finance memorandum dated 20.1.89.

5. What then survives is whether the conditions stipulated in the memorandum dated 27.11.65 referred to in the memorandum dated 20.1.89 are still obtaining or not. It is seen from the judgment dated 14.11.88 of this Tribunal that the certificate issued by the Collector on 30.4.85 was valid upto 30.4.88 and the ^{respondents} ~~applicants~~ had continued to make the payment at Vijaywada rates till 1.7.90. It could therefore be inferred that the conditions required for the special status of Mangalagiri were obtaining till that date at least.

6. Under these circumstances, we direct the respondents to continue to apply the Vijaywada rates to Mangalagiri also UNLESS (emphasis supplied) the terms laid down in the memorandum dated 27.11.65 had changed affecting the situation. The respondents are directed to complete this exercise within a period of two months from the date of receipt of this order. There is no order as to costs.

R.B.S.

R. Balasubramanian

(R. Balasubramanian)
Member(A).

C. J. Roy
(C. J. Roy)
Member(J).

Dated 14th January, 1992.

82/1/92
Deputy Registrar (J).