

Central Administrative Tribunal

HYDERABAD BENCH : AT HYDERABAD

O.A. No. 622/91

T.A.No.

Date of Decision : 19.2.92

Sri A. Sattaiah Petitioner.

Sri P. Venkateswarlu Advocate for the
petitioner (s)

Versus

The Secretary to Govt. of India, Ministry of Respondent.
Finance, New Delhi and 2 others

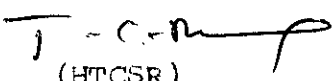
Sri NV. Ramana, Addl. CGSC Advocate for the
Respondent (s)

CORAM :

THE HON'BLE MR. T. CHANDRASEKHARA REDDY, MEMBER (JUDL.)

THE HON'BLE MR.

1. Whether Reporters of local papers may be allowed to see the Judgement?
2. To be referred to the Reporter or not?
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)


(HTCSR)
M(J)

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL:HYDERABAD BENCH

AT HYDERABAD

ORIGINAL APPLICATION NO.622/91

DATE OF JUDGEMENT 19th FEB., 1992

BETWEEN

Sri A. Sattaiah

.. Applicant

AND

1. The Secretary to Govt. of India
Ministry of Finance, New Delhi

2. The Director General
All India Radio, New Delhi

3. The Station Director,
All India Radio
Hyderabad

.. Respondents

Counsel for the applicant

::Sri P.Venkateswarlu

Counsel for the respondents

::Sri N.V.Ramana, Addl.
CGSC

CORAM:

THE HON'BLE SHRI T. CHANDRASEKHARA REDDY, MEMBER (JUDL.)

T. Chandrasekhara Reddy

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JUDGEMENT OF THE SINGLE MEMBER BENCH DELIVERED BY
THE HON'BLE SHRI T. CHANDRASEKHARA REDDY, MEMBER (JUDL.)

This application is filed under Section 19 of the Administrative Tribunals Act, to declare the action of the 3rd respondent herein, in stopping the payment of HRA and CCA from August, 1988 and also recovery from the salary of the applicant ^{the HRA and CCA that is paid} as unjust and illegal and to direct the respondents to pay the HRA and CCA to the applicant. from August, 1988.

The facts giving rise to this application in brief may be stated as follows:

1. The applicant is employed as Class 'D' staff in High Power Transmitter, All India Radio, Hayathnagar, Hyderabad from 1.1.1967. He is working in that capacity from 1967 till today. The applicant was paid allowances including HRA and CCA from 29.10.1973 to 29.10.1975. The Government is paying H.R.A. and C.C.A to all its employees employed in Cities and within 8 kilometers of distance from City Municipal Limits. The respondents denied the said payment to the applicant and two other Group 'D' employees. So, the applicant and the two other employees filed a writ petition No.9867/83 before the High Court of Andhra Pradesh claiming H.R.A. and C.C.A. In the said writ petition No.9867/83 WPMP No.13463/83 was filed and the Hon'ble High Court in the said WPMP No.13463/83 issued interim directions on 13.6.1984 to release the C.C.A. and H.R.A. from October, 1983 onwards to the applicant and the two others. On the point of jurisdiction, the said writ petition was dismissed on 24.12.1987.

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After the dismissal of the said writ petition, the respondents stopped paying H.R.A. and C.C.A. from August, 1988 and started recovering Rs.100/- per month from the salary of the applicant, the H.R.A. and C.C.A. that was paid in pursuance of the orders of the High Court in the above said writ proceedings. As this Tribunal has got jurisdiction as this is a service matter, the applicant has approached this Tribunal for the reliefs already indicated above.

2. In the counter filed by the respondents, it is maintained that as per the instructions contained in the OM No.F-2(37)E-II(B)64 dated 27.11.65, as amended from time to time, which was issued by the Ministry of Finance (Department of Expenditure), with regard to the entitlement of HRA and CCA to Central Government employees, the said Central Government employees whose place of work is at Hayathnagar are entitled for HRA and CCA subject to the fulfilment of the conditions mentioned therein. It is also maintained in the said counter that the Government is paying CCA to its employees when their place of work is in urban Agglomeration and HRA to its employees employed within a distance of eight kilometers from the periphery of the Municipal limits of a qualified city subject to the fulfilment of the conditions laid down in the Ministry of Finance (Department of Expenditure) OM dated 27.11.65. It is also further maintained that grant of HRA is subject to the condition that the dependency certificate issued by the Collector/Deputy Commissioner is to be accepted by the Ministry of Finance.

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3. Admittedly, the said Hayatnagar, where the High Power Transmitter of All India Radio is situated is within 8 kilometers distance from the periphery of the Municipal Limits is not in dispute in this case. One of the reasons for denial of HRA and CCA to the applicant seems to be that the dependency certificate by the District Collector had not been issued by the Collector of Ranga Reddy District in under whose jurisdiction the said Hayatnagar is situated. As seen from the correspondence that was placed before the Administrative Officer of All India Radio is reminding the District Collector of Ranga Reddy District right from 1985 onwards for issue of dependency certificate to extend the facilities of HRA and CCA to the staff members working in Hayatnagar High Power Transmitter station of All India Radio, Hyderabad. But the response to the correspondence from the District Collector, Ranga Reddy District is still awaited by the All India Radio, Hyderabad. Be it as it may.

4. It is the case of the applicant [redacted] and as could be seen from the rejoinder filed on behalf of the applicant, that [redacted] there are 4 chowkidars working at Hayathnagar High Power Transmitter AIR whose names are [redacted].

1. S/ Sri G. Nancharaiah , 2. Abdul Sattar,
3. J.Gopal and 4. Narasaiah and there is one helper by name Sri B. Swamy who are paid CCA and HRA and it is unfair and unjust to deny the same benefits to the applicant as the applicant is also working in the High Power Transmitter of AIR situated at

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Hayathnagar, which is within 8 kms from Hyderabad Municipal Corporation limits.

5. In view of the above plea raised on behalf of the applicant, Sri Raj@swara Rao, appearing for Sri NV Ramana, Counsel for the respondents placed before us the information that is furnished by the Station Director, All India Radio, Hyderabad with regard to the payment of HRA and CCA to the employees mentioned in the rejoinder of the applicant. It is made clear in the said information furnished by the Station Director, All India Radio, Hyderabad, that CCA and HRA was being paid to the said C.Nancharaiiah, Abdul Sattar, Gopal and B. Swamy. But the said statement is qualified by saying that the CCA ~~was~~ and HRA is being paid as their duties are not fixed continuously at H.P.T. Hayathnagar, whereas, the duties of the applicant are fixed and he is posted continuously only at H.P.T. Hayathnagar. It is further said that the above employees are performing duties at other Centres of AIR, Hyderabad also whereas, Sri A. Sathaiah, the applicant herein, is posted at H.P.T. Hayathnagar only and is working there continuously without any change of duty place. So, it is the argument of the learned Counsel for the respondents that the applicant cannot claim HRA and CCA on par with the other employees mentioned in the rejoinder of the applicant, as they are being allotted duties outside H.P.T. Hayathnagar also; whereas, in the case of the applicant, that he has to work only in H.P.T., Hayathnagar. The fact that the applicant herein, as well as the ~~was~~ employees mentioned in the rejoinder of the applicant are all employees of All India Radio, Hyderabad, is not in dispute. Whereas, the four employees mentioned in the

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rejoinder of the applicant herein, are paid CCA and also HRA, there is no reason why the applicant is also not placed in similar position like the other four employees and should be denied the benefit of HRA and CCA for working continuously at H.P.T., Hayathnagar. Denial of HRA and CCA to the applicant in this case, may amount to differential treatment, very much offending the equality clause of our Consitution. So, as the four other employees of H.P.T. Hayathnagar (whose names are S/Sri Nancharaiiah, Abdul Sattar, Gopal and B. Swamy) are paid CCA and HRA it will be reasonable and proper to direct the respondents to Pay CCA And HRA to the applicant also, in accordance with the rules.

6. As already pointed out, while narrating the case of the applicant, the applicant had been paid HRA and CCA in pursuance of the interim directions issued by the Hon'ble AP High Court on WPMP No.13463/83. As the writ petition was dismissed, the respondents seem to have stopped payment of HRA and CCA from August, 1988, to the applicant. In our opinion, the applicant, as of right, is entitled for payment of HRA and CCA from August, 1988 onwards and a direction is liable to be given to the respondents to pay HRA and CCA accordingly from the month of August, 1988.

7. The respondents seem to have stopped not only payment of HRA and CCA from August, 1988, to the applicant, but also, have taken steps to recover payment of HRA and CCA that was paid to the applicant in pursuance of the interim orders in the said writ petition on the file of the High Court of Andhra Pradesh. Accordingly

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an amount of Rs.5704/- paid to the applicant by the respondents towards CCA and HRA in pursuance of the interim directions of the Hon'ble High Court was being recovered at the rate of Rs.100/- per month from the salary of the applicant from November, 1988. As the applicant has a right to be paid CCA and HRA by the respondents, in our opinion, the recovery of HRA and CCA paid to the applicant in pursuance of the directions of the Hon'ble High Court of AP, is not legal and valid.

8. As a matter of fact, this Tribunal as per its order dated 2.7.91, had stayed the recovery of CCA and HRA from the salary of the applicant. So, as the recovery of CCA and HRA as has been paid lawfully to the applicant herein, any action to recover the same on the part of the respondents, as already pointed out, would certainly be not valid by law. So, in view of this position, it will be just and equitable to direct the respondents not to make any recovery of the CCA and HRA that has already been paid and further direct the respondents to refund the amount that had been deducted from the salary of the applicant at the rate of Rs.100/- per month since November, 1988 onwards till the interim orders of this Tribunal to stop the recoveries of HRA and CCA were implemented.

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9. In the result, we direct the respondents to restore the payment of HRA and CCA to the applicant which was stopped in the month of August, 1988, after the dismissal of the writ petition No.9867/83 on the file of the High Court of Andhra Pradesh.

We also direct the respondents to refund the entire amount that had been recovered from the salary of the applicant from November, 1988, onwards towards payment of HRA and CCA till the date of the interim orders dated 2.7.1991, passed by this Tribunal to stop the recovery of HRA and CCA was implemented by the respondents.

The application is allowed accordingly. In the circumstances of the case, the parties shall bear their own costs, in this OA.

(Handwritten signature)

(T. CHANDRASEKHARA REDDY)
Member(Judicial)

Dated: 19 Febraury, 1992

(Handwritten signature)
Dy.Registrar(J)

To

1. The Secretary to Govt. of India,
Ministry of Finance, New Delhi.
2. The Director General, All India Radio, New Delhi.
3. The Station Director, All India Radio, Hyderabad.
4. One copy to Mr.P.Venkateswarlu, Advocate
4-7-220, Esamia Bazar, Hyderabad-27.
5. One copy to Mr.N.V.Ramana, Addl.CGSC.CAT.Hyd.
6. One spare copy.

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mvl

(Handwritten signature)
19/2/92

14/12/92
TYPED BY

CHECKED BY

COMPARED BY

APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD

THE HON'BLE MR.

V.C.

THE HON'BLE MR. R. BALASUBRAMANIAN: M(A).

AND

THE HON'BLE MR. T. CHANDRASEKHAR REDDY:
M(JUDL)

AND

THE HON'BLE MR. C. J. ROY : MEMBER (JUDL)

DATED: 19-2-1992

ORDER/JUDGMENT:

R.A/C.A/ M.A.Nc.

in

O.A.Nc.

622/91

T.A.No.

(W.P.No.)

Admitted and interim directions
issued.

Allowed

Disposed of with directions.

Dismissed

Dismissed as withdrawn

Dismissed for Default.

M.A. Ordered/ Rejected

No order as to costs.

