

Central Administrative Tribunal

HYDERABAD BENCH : AT HYDERABAD

O.A. No. 805/91

Date of Decision : 12-2-2012

~~T.A. No.~~

Sri Tara Singh

Petitioner.

Ms G. Bikshapathi

Advocate for the
petitioner (s)

Versus

Director, Def. Metallurgical

Respondent.

Research Laboratory & others, Hyderabad

Sri N.V. Ramana

Advocate for the
Respondent (s)

CORAM :

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

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 ? *MS*
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

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL:HYDERABAD BENCH
AT HYDERABAD

ORIGINAL APPLICATION NO.805/91

DATE OF JUDGEMENT 12th FEBRUARY, 1992

BETWEEN

Sri Tara Singh

.. Applicant

AND

1. The Director,
Defence Metallurgical Research
Laboratory, Hyderabad
2. Government of India
Represented by its Secretary
Ministry of Defence, New Delhi
3. Sri S. Nagarjuna, SC'C'
Office of the Defence Metallurgical
Research Laboratory, Hyderabad
4. Sri K. Balasubramanian, SC'D'
Office of the Defence Metallurgical Research
Laboratory, Hyderabad
5. Sri A.B. Pandey, SC'C'
Office of the Defence Metallurgical
Research Laboratory, Hyderabad .. Respondents

Counsel for the applicant :: Ms. G. Bikshapathi

Counsel for the respondents:: Mr 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, by the applicant herein, to set aside the orders dated 14.8.1991 in so far, it related with the allotment of 'D' type quarters to the Respondents 3 to 5 as being illegal and arbitrary and to direct the first respondent to allot Quarter No.D-35/6 to the applicant and to grant such other reliefs as may be fit and proper in the circumstances of the case.

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

1. The applicant has been working as Junior Scientific Officer since May, 1988, in the office of the Defence Metallurgical Research Laboratory, Hyderabad. The applicant is drawing a basic pay of Rs.2750 + Rs.75 as personal pay. It is the case of the applicant that he is eligible for allotment of 'D' type quarters in consideration of his emoluments viz., Rs.2750 + Rs. 75 personal pay, which is more than Rs.2800/-. The respondents did not take into consideration the personal pay of Rs.75/- for the purpose of allotment of the 'D' Type quarters to the applicant. To the representation of the applicant to allot him 'D' Type Quarters in preference to Respondents 3 to 5, who, according to the applicant are drawing less "emoluments", are allotted the said 'D' Type Quarters by the respondents 1 and 2. Aggreived

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by the action of the respondents, the present OA is filed for the reliefs as already indicated above.

Counter is filed by the respondents opposing the application.

2. FR 45 says Emoluments means "Pay". Pay is defined in FR 9(21)(a) as follows:

"Pay means the amount drawn monthly by a Government servant as-

- i) the pay, other than special pay or pay granted in view of his personal qualifications, which has been sanctioned for a post held by him substantively or in an officiating capacity or to which he is entitled by reason of his position in a cadre; and,
- ii) overseas pay, special pay and personal pay, and
- iii) any other emoluments which may specially be classified as pay by the President."

3. Annexure R-III to the Counter affidavit, is the OM of the Government of India, Ministry of Defence, dated 27.11.1987, wherein, it is clarified that an employee drawing less than Rs.3600/- p.m. but not less than Rs.2800 p.m. towards emoluments will be entitled to Type IV quarters which is the same as Type 'D' quarters.

4. The "emoluments" as seen in the OM is defined as follows:

"Emoluments" means the emoluments as defined in FR 9(21) a(i) i.e. the pay, other than special pay or pay granted in view of his personal qualifications, which has been sanctioned for a post held by him substantively or in an officiating capacity or to which he is entitled by reason of his position in a cadre."

5. So, as could be seen from the said OM dated 27.11.1987, personal pay that is drawn by the Government

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servant does not form part of "emoluments". In this case, the personal pay of Rs.75/- the applicant is drawing towards the family incentive increment. If the said personal pay of Rs.75/- is excluded from emoluments, the applicant will not be entitled to the Type IV Quarters which is the same as Type 'D' quarters. But, the learned Counsel for the applicant contends that the emoluments would include personal pay also, as could be seen from FR 9(21)(a)(ii) to which reference is already made. It is the contention of the applicant that the personal pay of Rs.75/- also has got to be included in the emoluments and when so included the applicant would become entitled to Type IV Quarters, which, as already pointed out, is the same Type 'D' Quarters.

6. We have carefully examined the contention of the Counsel for the Applicant. If the contention of the learned counsel for the applicant is to be accepted, then among the Junior Scientific Officers, for the purpose of allotment of quarters, the said Junior Scientific Officers have to be got bifurcated into two cadres - one cadre drawing "personal pay" and the other not drawing "personal pay". So, a Scientific Officer, who is eligible for Type 'D' quarters, because of his emoluments being less than Rs.2800/- as he is not drawing personal pay, even though senior to the other Scientific officer in all respects would be entitled only to an inferior type of quarters, whereas, an officer, though junior, but

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To

1. The Director, Defence Metallurgical Research Laboratory, Hyderabad.
2. The Secretary, Govt. of India, Ministry of Defence, New Delhi.
3. One copy to Mr. G. Bikshapathi, Advocate, Race Course Road, Malakpet, Hyderabad.
4. One copy to Mr. N.V. Ramana, Addl. CGSC CAT. Hyd.
5. One copy to Hon'ble Mr. T. Chandrasekhar Reddy, Member (J) CAT. Hyd.
6. One copy to D.R. (J) CAT. Hyd.
7. Copy to All Reporters as per standard list of CAT. Hyd.
8. One spare copy.

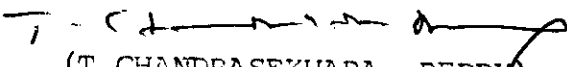
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drawing the said personal pay would be entitled to a better type of quarters as he may be drawing more than Rs.2800/- towards his "emoluments." This leads to discrimination and would be violative of Article 16, as a differential treatment will be there in the allotment of quarters purely due to the 'personal pay' being included in the 'emoluments.' But, if the personal pay is not included in the emoluments, absolutely, there cannot be any such discrimination in the allotment of quarters.

7. In the said OM "emoluments" is defined as in FR9(21)(i) to which a reference is already made. So in view of the Annexure R.III which is the OM of Govt. of India, Ministry of Defence, Department of Defence Research and Development, New Delhi dated 27.11.1987, certainly the "personal pay" of the applicant cannot be taken into consideration in calculating the "emoluments" of the applicant. So, as the "emoluments" of the applicant do not exceed Rs.2800/-, the applicant is not entitled to the relief as prayed for by him and hence, this OA is liable to be dismissed and is accordingly dismissed. In the circumstances of the case, we make no orders as to costs.


(T.CHANDRASEKHARA REDDY)
Member (Judicial)

Dated: 12 February, 1992


Deputy Registrar (J)