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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

O.A.No.1613/95

Date of Order: 28.6.96

P.Mahaboob Khan

.. Applicant.

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1. The Senior Superintendent of Post Offices, Guntur Division, Guntur - 522 007.
2. The Postmaster General, Vijayawada Region, Vijayawada - 520 002.
3. The Union of India, rep. by the Secretary, Dept. of Posts, Dak Bhavan, New Delhi - 110 001.

.. Respondents.

Counsel for the Applicant

.. Mr.T.V.V.S.Murthy

Counsel for the Respondents

.. Mr.K.Ramulu

CORAM:

HON'BLE SHRI R.RANGARAJAN : MEMBER (ADMN.)

J U D G E M E N T

(Oral order as per Hon'ble Shri R.Rangarajan, Member (Admn.))

The applicant was a Sub-Post Master HSG -II from 1.8.92 at Old Mangalagiri Sub Office. That office was shifted in 1994 to a rented place without any attached quarter for the Sub Post Master. It is further stated that upto 5.1.95 the applicant was getting HRA as no quarter was allotted to him in the new office. However after 5.1.95 he was allotted a Type-II quarter far away from the post office even though he was entitled for Type-III quarter. The applicant did not occupy the quarter due to the fact that the allotted quarter is not to his entitlement and also because of the fact that it was far away from the post office. Hence he rented a private accomodation and he stayed in that accomodation and claimed HRA but he was not paid any HRA for the

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period from 5.1.95 till he was transferred from that office. The applicant submitted number of representations for granting him the HRA for the period he stayed in a rented quarter from 5.1.95 till he was transferred from that place. But those representations were rejected by the impugned order No. DD-99 dated 4.7.95 (A-8).

2. Aggrieved by the impugned order he has filed this OA for a direction to the respondents to sanction HRA due to him for the period mentioned above and also payment of compensation as admissible under the rules.

3. The applicant relies on para 4(b)(iv) of G.O.I., M.O.F., O.M.No.F2 (37) - E.II (B)/64 dated 27.11.65 as amended from time to time at page 12 of the Swamy's compilation of F.R.S.R. Part V - H.R.A. and C.C.A., 1988 Edition-to state that the refusal by a government servant of a quarter of different class from that for which he is eligible shall not constitute refusal for the purpose of denying him H.R.A. admissible.

4. The learned standing counsel submits that Type-I and Type-II quarters were available which was allotted and hence he is not entitled for claiming HRA.

5. When the rule position is clear that he is entitled for Type-III he has to be allotted that quarter of his entitlement for HRA. In this case it is more so because he was given a Type-II quarter which is reported to be far away from the post office premises which fact is ^{not} denied by the respondents. Hence on the consideration of above reasons his entitlement of HRA cannot be denied.

6. The learned counsel for the applicant relying on para-37 of P&T Manual Vol-IV para 1 submits that the applicant is entitled for a rent free quarter. But the learned standing

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counsel submits that he being a Sub Post Master is not covered by para-37 of the rule. But in the same reply statement of the respondents, they themselves admit that he is entitled for a rent free accomodation. In view of the contradictory statement the contention of the respondents cannot be upheld.

7. The applicant also relies on the D.G. P&T Lr.No. 30-1/68-PAT dated 17.7.70 at page-102 of Swamy's compilation FRSR-Part-V - ibid to state that the concession of rent free quarters or HRA in lieu there of is a condition of service and forms part of emoluments of the posts to which it is attached. There is no satisfactory reply in regard to this contention by the respondents.

8. The reason for attached quarter to the Post Master/ Sub Post Master who is incharge of the post office is to make him available on call as he has interface with public quite often. Hence providing a quarter far away from the post office and compelling him to occupy that quarter and on his refusal to occupy the quarter denying him to grant HRA is irregular and arbitrary.

9. The applicant relies on the judgement of this Tribunal in a similar OA.273/96 decided on 26.2.96. In pursuance of the directions given in the OA the respondents themselves have agreed to give the HRA to the applicant in that OA who was also an SPM in Mangalagiri Sub Office and was not provided with a rent free quarter attached to that post office. In view of the above the precedence similar claim of the applicant in the present case cannot be denied. Though the learned standing counsel submits that the applicant may now submit a fresh representation to the concerned and the department may decide the issue on the basis of the rules, I see no reason for giving such a direction in this case as in a similar case

relief had already been granted and no useful purpose will be served by asking the applicant to submit a fresh representation as that direction will only delay the process.

10. The applicant had made out a strong case for getting HRA. There is ample material to come to the conclusion that the applicant is entitled for HRA from 5.1.95 till he was transferred from Old Mangalagiri Sub Office.

11. The applicant fairly submitted that he is not insisting on the compensation part, as no compensation was given as per letter No.D-89, GR.7, dated 30.5.96.

12. In a similar case CAT, Ernakulam Bench has also granted payment of HRA to the applicant in that case reported in 1990 14 (ATC) 244 (Thomos vs. Union of India and others).

13. In view of the above the following direction is given:-
"The applicant should be paid the HRA from 5.1.95 (the date on which he was given Type-II quarter at Mangalagiri) till
... of the Old Mangalagiri Sub Office."

14. The OA is ordered accordingly. No costs.

(R. RANGARAJAN)
Member (Admn.)

Dated: 28th June, 1996

(Dictated in Open Court)

Dr. Ranganathan (J)

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Copy to:-

1. The Senior Superintendent of Post Offices, Guntur Division, Guntur.
2. The Postmaster General, Vijayawada Region, Vijayawada.
3. The Secretary, Dept. of Post, Dak Bhavan, Union of India, New Delhi.
4. One copy to Sri. T.V.V.S.Murthy, advocate, CAT, Hyd.
5. One copy to Sri. K.Ramlu, Addl. CGSC, CAT, Hyd.
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22/7/91

DA-1613/91

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THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH, HYDERABAD

THE HON'BLE SHRI R. RANGARAJAN: M(A)

DATED:

28/6/91

ORDER/JUDGEMENT

U.A. NO./R.A./C.P. NO.

1112/1

ADMITTED AND INTERIM DIRECTIONS ISSUED
ALLOWED

DISPOSED OF WITH DIRECTIONS

DISMISSED

DISMISSED AS WITHDRAWN

ORDERED/REJECTED

YLKR

II COURT

No Spare Copy

