

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH:
AT HYDERABAD



ORIGINAL APPLICATION NO.67 of 1995

DATE OF ORDER: 5th July, 1996

BETWEEN:

1. SWARUPA S.KATLAPARTHI,
2. M.THANGAM,
3. M.N.REDDY,
4. CH.RAMA KRISHNA RAO,
5. N.AMBAIAH,
6. G.SATYANARAYANA,
7. M.VENKATESWARA RAO,
8. M.M.APPA,
9. M.SANGAIAH,
10. M.MALLESWARA RAO,
11. MOHD. KHAJA GHAJI UDDIN,
12. K.RAMA KRISHNA,
13. D.KASIAH

.. Applicants

and

1. The Sr.Superintendent,
Telegraph Traffic,
Warangal Division,
Hanmakonda 506 001,
2. The Chief General Manager,
Telecom, A.P, (1Reptg. Union of India),
Hyderabad 500 001,
3. The Sr.Manager, Estate,
BHEL, Ramachandrapuram,
Hyderabad 500 032.

... RESPONDENTS

COUNSEL FOR THE APPLICANTS: Shri C.SURYANARAYANA

COUNSEL FOR THE RESPONDENTS: Mr NV Ramana, ADDL.CGSC

CORAM:

HON'BLE SHRI R.RANGARAJAN, MEMBER (ADMINISTRATIVE)

JUDGEMENT

(AS PER HON'BLE SHRI R.RANGARAJAN, MEMBER (ADMINISTRATIVE))

Heard Shri C.Suryanarayana, learned counsel for
the applicants and Shri V.Rajeswara Rao representing Shri

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N.V.Ramana, learned standing counsel for the respondents.



2. There are 13 applicants in this OA who are working in the Telegraph Office at BHEL, Ramachandra Puram, Hyderabad. The dates of joining of the applicants 1 to 10 are indicated at Annexure A-7. The applicant No.8 has been relieved on 23.8.94 on transfer to Sadashivapet. The applicants 11 and 12 are working there since July 1994 while the applicant 13 has been working since October, 1994.

3. The applicant 10 is the Assistant Superintendent, Telegraph Traffic and all of them were provided with quarters in the BHEL Township and date of occupation was on various dates between 1992-94. The applicant 10 had signed the letter dated 22.6.94 addressed to the Estate Officer, Township Administration, BHEL to the effect that he will pay the licence fee at 10% of his basic pay and CCA and also agreed to forego the House Rent Allowance admissible to him as per the extant rules and occupy the quarter allotted to him in BHEL Township, Ramachandrapuram. It is stated that the other applicants had not given any such undertaking. R-3 by his letter No.REF;HY:TA:EO:94 dated 28.7.94/8.8.94 (Annexure A-2) addressed to R-1 requested ^{him} to give details of the employees occupying houses at BHEL Township. The details were supplied to him by R-2 by his letter No.B-1/94-95 dated 24.8.94 (Annexure A-4). Para 3 of the letter is relevant which reads as below:

"House rent allowance is being drawn and paid to the officials. Due to the

following reasons the quarters were not allotted according to the eligible type, the officials emoluments were supplied to the BHEL authority for recovery of HRA and they have charged only 10% licence fee on pay, I/R and CCA. The BHEL authority is not charging as per central Government rules. The officials are paying the rent charged by BHEL authorities privately. Hence HRA could not be recovered from the pay bills."

A further clarification was asked for by R-1 vide letter No. EST-17/RFA/94-95/81 dated 2.9.94 (Annexure A-5) to know whether HRA paid to the officials occupying house in the BHEL Township is to be stopped and whether the HRA payment already made should be recovered from them or not. To this clarification, R-2 informed R-1 by the impugned letter No. TAC/TT/Genl/94/2 dated 23.11.94 (Annexure A-6) that the occupants of the quarters in BHEL Township, Ramachandrapuram are not entitled to HRA as per 5(c) of the conditions for drawing of HRA under FR SR Part V (HRA & CCA) since BHEL is a Government of India undertaking and further a direction was also issued to recover the HRA already paid to the officials occupying houses at BHEL Township. Recovery of the HRA already paid was also ordered by the impugned letter dated 4.12.94 (Annexure A7). As a consequence of the above letters, payment of HRA for the month of December 1994 has been stopped and recovery for the HRA payment made earlier was ordered from the month of January 1995 as per the details given in Para 4.6 of the OA.



 

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4. Aggrieved by the above, this OA has been filed for setting aside the impugned orders dated 4.12.94 Annexure A7) read with the letter dated 23.11.94 (Annexure A-6) and for consequential direction to continue the payment of HRA from the date it was stopped and stoppage of recovery of the excess HRA alleged to have been made earlier.

5. The main contention of the applicants in this OA is that the Telecom Department has not allotted nor did it allot those quarters to its employees according to its own rules. Even allotment order does not indicate that the Department had allotted the quarters but it is allotted directly to the applicants by BHEL management. The applicants are paying licence fee and other charges direct to the BHEL authorities. When the quarter is allotted by the Government of India undertakings (BHEL is one among them) the quarter allotted cannot be deemed to be a Government quarter and hence the applicants are not disentitled for payment of HRA.

6. A reply has been filed in this connection resisting the prayer. The reply states that in terms of Govt. of India O.M.No.12034(1)/82-Pol.III dated 10.4.95 and 24.4.87 (Annexure R-II of the reply), grant of HRA is subject to certain conditions under which Government servants occupying Govt. accommodation are not eligible for HRA. Since the quarters provided by BHEL are Govt. quarters, and the applicants who are Govt. servants are in occupation of the Govt. accommodation they are not eligible for HRA.



7. The main controversy now is whether the quarters in occupation of the applicants at BHEL Township can be said to be the Govt. accommodation for the purpose of admissibility of HRA to the applicants.

8. The law in this connection has been analysed from the various citations and it was held in O.A.NO.945/94 decided today that "the law laid down in this connection is that the accommodation provided to the Govt. servants directly by the autonomous corporation/undertakings by the direct effort of the allottees cannot be construed as accommodation provided by the Govt. Department and also cannot be treated as accommodation procured through the active assistance and help of the concerned Govt. Department. Under the above circumstances, the Govt. servants are entitled for HRA. The converse is that if the accommodation is either provided by the Govt. or through their active assistance, cooperation and help, the accommodation is to be treated as the one provided by the Govt. and such allottees are disentitled for HRA."

9. The case has to be looked from the law as laid down above. In para 3 of the letter to the Assistant Superintendent (TI), Telegraph Office, R.C.Puram vide letter No. cited supra dated 24.8.94 (Annexure 4) which is extracted in Para 3 above it is stated that the HRA could not be recovered for reasons stated in that para. It is also submitted by the learned counsel for the applicants


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that the licence fee has been paid direct by the applicants themselves and the quarters were obtained by their pursuasion with the BHEL authorities and the bills for collection of licence fee will prove that the billing for payment of licence fee etc. is directly done by the BHEL and sent to the allottee and not through the Telecom Department.

10. The respondents though stated that the quarters were allotted through the efforts of the Telecom Department, no evidence to that effect has been enclosed to the OA. Reply also is silent in regard to the various efforts taken by the Department for getting the quarters allotted for their staff working in BHEL Township.

11. In view of the above submissions, without any reliable proof on either side, it is not possible to come to a conclusive decision whether houses in BHEL were given to the applicants herein direct or it is allotted through the Department. In order to ascertain the factual position, Registry was directed by the order dated 19.2.96 to get necessary details as above by addressing a letter to the Director, BHEL. In pursuance of the above directions, Registry addressed letter No.CAT/HYD/Judl./OA.67/95 dated 6.3.96 to the Director, BHEL, Ramachandrapuram. The Senior Manager (Estate), BHEL had replied that letter vide reference No.HY/TA/ED/96 dated 26.3.96. For the sake of clarity, the contents of the letter are produced below:

"With reference to your letter cited above, the information is furnished



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hereunder as requested by you.

Quarters owned by Bharat Heavy Electrical are allotted to the applicants of Telegraph Department on their request and duly recommended by the department.



List of employees staying in the BHEL quarters is enclosed for your information."

The enclosure showing the Telegraph Department employees staying in the company quarters is also attached to that letter. It has been clearly stated in the above letter that the quarters owned by BHEL are allotted to the applicants of Telegraph Department on their request after getting recommended by the Department. The above reply shows that the request was made by the employees only and not by the Telecom Department. The quarters were allotted to the employees on their request and hence they are to be treated as principal allottees. The recommendations by the DoT are only to identify the employees belonging to Telecom Department and to stand as a surety in case the employees allotted with the quarters fails to pay licence fee and other charges. Hence the Telecom Department can be treated only as a proforma allottee for the purpose of surety and they have no hand in allotment of quarters to the applicants herein. From the above analysis it transpires that the applicants got quarters allotted to them on their request, occupied those quarters and paid rental charges directly to BHEL. Even in the list attached to the letter dated 26.3.96, nowhere it is stated that the Department was



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allotted quarters and that the quarters were reallocated to the applicants. The Annexure shows the name of the allottees as the applicants and also the date of their occupation of those quarters. It is contra to the allotment letter issued by VSP to the applicants in OA 945/94. VSP has shown one of the officials of the department by designation as an allottee and thereafter the quarters were reallocated to the applicants in that OA. There is clear indication in regard to the re-allotment of quarters by the parent Department for applicants in OA 945/94 as per the allotment order. In the present case, no allotment order has been enclosed and even the annexure to the letter of BHEL shows the applicants as allottees and nowhere it is stated that the department was allotted the quarters first and then reallocation was done to the applicants in this OA later. A perusal of the Demand Notice No.AA/MISC/EST.REV/1994 dated 1.12.94 (Enclosure I to the written arguments of applicants) issued by BHEL clearly shows that it was directly addressed to the applicants and cash receipt for the demand was issued directly by BHEL to the allottees as can be seen from Enclosure II. In view of the above documents it can be reasonably concluded that the quarters in BHEL Township were allotted to the applicants herein directly by the BHEL authorities and no substantial assistance or help or cooperation was extended by the Departmental authorities in getting the quarters for their employees headquartered in BHEL Township.

12. From the above discussions, there can be no doubt in the mind of anybody that the quarters in the BHEL Township were allotted to the individual employees directly. Hence, it has to be held that the applicants were provided with the quarters from the Government of India Undertaking viz, BHEL directly without active assistance and help from the Department of Telecom. In view of the law laid down as indicated in para 8 supra the applicants are entitled for HRA.

13. In the result, the following direction is given:-

The applicants are entitled for HRA even though they are occupying the quarters belonging to BHEL, a Govt. of India undertaking, in BHEL Township. If any recovery had already been made for the alleged excess payment of HRA the same should be returned back to them along with the arrears of HRA payable to them from the date of stoppage of HRA till the resumption of the payment of HRA in pursuance of this order. Time for compliance for payment of arrears is three months from the date of receipt of a copy of this order.

14. The OA is ordered accordingly. No costs.

प्रमाणित प्रति
CERTIFIED TO BE TRUE COPY

[Signature]

न्यायालय अधिकारी
COURT OFFICER

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal

हैदराबाद बेंच
HYDERABAD BENCH

True Copy
[Signature]
Counsel for Applicants

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH (3)
AT HYDERABAD

M.A.No.1132/96 and
O.A.SR.3955/96

OA 1462/96

Dated: 13.12.1996

Between

1. B.Kotaiah
2. D.Sudhakar Rao
3. M.Venkatarao
4. Smt. K.Padmanjali
5. K.Surya Rao
6. Md. Hashim Hussain
7. J.P.Anjaneyulu
8. K.Satyanarayana Reddy
9. Y.Kurmanayakulu
10. K.Sarveshwar
11. G.Sayi
12. M.Lakshminarayana
13. D.A.Doula

... Applicants

and

1. The Telecom District Manager,
Medak Telecom District,
Sangareddy.
2. The Chief General Manager,
Telecom, AP., Hyderabad.

.. Respondents


Mr. C.Suryanarayana

.. Counsel for applicants

Mr. V.Bhimanna, Addl. CGSC

.. Counsel for respondents

C ORAM

HON'BLE SHRI H. RAJENDRA PRASAD, MEMBER (ADMN.) 

O R D E R

Since the case came up for admission for the first time today, the learned Standing Counsel does not naturally have instructions on the subject. However, it is seen that the facts, averments and pleadings in this case are exactly identical to those contained in O.A.67/95 disposed of on 5th July, 1996. It may be mentioned that respondents have

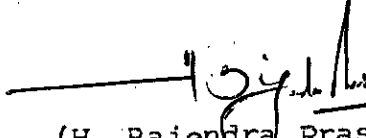


duly filed a counter in the said O.A. and final directions were issued after duly taking into consideration the reply filed by the same respondents who figure in the present O.A. as well.


2. Under the circumstances it is directed that the orders contained in para 13 of the judgement dated 5th July 1996 in O.A. 67/95 be implemented in respect of the present applicants also.

3. Since all the applicants are shown to have a common cause of action, they are permitted to file a joint O.A. M.A.1132/96 is accordingly disposed of. O.A. SR 3955/96 be properly numbered.

Thus the M.A. and O.A. are disposed of.


(H. Rajendra Prasad)
Member (Admn.)

13th December, 1996


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Deputy Registrar (b)cc

VM

O.A.1462/96

To

1. The Telecom District Manager,
Medak Telecom District, Sangareddy.
2. The Chief General Manager,
Telecom, A.P.Hyderabad.
3. One copy to Mr.C.Suryanarayana, Advocate, CAT.Hyd.
4. One copy to Mr.V.Bhimanna, Addl.CGSC.CAT.Hyd.
5. One copy to Library, CAT.Hyd.
6. One copy to Hon'ble Mr.H.Rajendra Prasad, Member(Admn.)CAT.Hyd.
7. One spare copy.

pvm.

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I COURT

TYPED BY

CHECKED BY

COMPARED BY

APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD

THE HON'BLE MR. JUSTICE M.G. CHAUDHARI
VICE-CHAIRMAN

AND

THE HON'BLE MR. H. RAJENDRA PRASAD
MEMBER (ADMN)

Dated: 13-12-1997

~~ORDER~~ JUDGMENT

MIA./R.A./C.A. No.

in

O.A.No. 1462/96.

T.A.No.

(W.P.)

Admitted and Interim Directions
Issued.

Allowed.

Disposed of with directions

Dismissed.

Dismissed as withdrawn.

Dismissed for default.

Ordered/Rejected.

No order as to costs.

pvm.

