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(11)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH

AT HYDERABAD

O.A.No.88/96

Date of Order: 8.7.96

BETWEEN :

B.Gandhi

.. Applicant.

AND

1. The Director, Central Research Instt.
for Dryland Agrl., Santoshnagar,
Hyderabad - 500 059.
2. The Sr. Administrative Officer, CRIDA,
Santoshnagar, Hyderabad - 500 059.
3. Officer-in-Charge, Gunegal Research Farm,
CRIDA, Santoshnagar, Hyderabad-500 059.
4. The Director General, I.C.A.R.,
Krishi Bhavan, New Delhi - 110 001.
5. The Secretary, I.C.A.R.,
Krishi Bhavan, New Delhi - 110 001.
6. The Deputy Director General (Soils),
I.C.A.R., Krishi Bhavan,
New Delhi - 110 001.

.. Respondents.

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Counsel for the applicants

.. Mr.B.Gandhi
Party-in-Person

Counsel for the Respondents

.. Mr.N.R.Devraj

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CORAM:

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

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J U D G E M E N T

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

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Heard Mr.B.Gandhi, Party-in-Person and Mr.N.R.Devraj,
learned standing counsel for the respondents.

- who filed this OA
2. The applicant is a Superintendent in Gunegal Research Farm, ~~_____~~ Earlier he was Superintendent in the Administrative Office/CRIDA at Santoshnagar. By the impugned order No.SAO/Offi/94 dated 19.10.94 (A-1) he was transferred from Audit and Accounts Section and he was put

[Signature]

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under the control of the Senior Administrative Officer. By the impugned order No.SAO/Offi/94 dated 2.12.94 his headquarters was transferred to Gunegal Research Farm by R1 in exercising powers listed under Sl.No.29 of the list on powers delegated to the Directors of the Research Institute of ICAR vide schedule III of the Council's letter No.6(2)/90-CDN(AA) dt. 18.5.92. The above two orders are assailed in this OA.

3. The main contention of the applicant in this OA is as follows:-

SR 59 under the Sl.No.29 of the list of powers delegated to the Director is only in regard to the transfer headquarters for payment of TA and DA for official work. That rule has no relevance in regard to shifting of headquarters for the purpose of denying HRA and CCA. The applicant was earlier working at Santoshnagar and because of that he was entitled for HRA and CCA and his transfer to GRF for performing some duties should be treated as shifting of headquarters to avoid TA and that shifting should not stand in his way of getting HRA and CCA at the rate prescribed for employees headquartered at Santoshnagar office. Further it is the contention of the applicant that the GRF is only a research farm and it has no significance for treating it as headquarters. Whoever is posted to GRF is ~~having~~ the headquarters at the place where they were working earlier. Though he was shown as shifted to GRF his headquarters continued to be in Santoshnagar and hence he is entitled for HRA and CCA.

4. The respondents filed a reply ~~resisting~~ the prayer. The first point for consideration is whether SR 59 empowers the Director to shift the headquarters of employees under his control, ^{which} ~~which~~ results in non-payment of HRA and CCA. The respondents submit that as per the delegation of powers under Sl.No.29 of the letter quoted above, the director CRIDA who is the appointing authority can prescribe the headquarters of the

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CRIDA employees as per the definition of the headquarters defined under SR 59. The learned standing counsel further avered that all the concerned employees were informed by Lr.No. SAO/Offi/94 dated 28.5.94 (copy enclosed vide Annexure-II) to the effect that the headquarters of any employee of CRIDA could be fixed by the Director at Santoshnagar Office, Hayatnagar Research Farm, GRF or at any other place where research activities of CRIDA may be organised/in progress on account of the exigencies of administration/in public service. Further it is stated that the sanctioned post for CRIDA is a combined one for all the offices including GRF and hence there is no need to show separate sanction of posts to GRF.

5. From the above it is evident that R1 has got full powers to shift the headquarters of any employee of CRIDA anywhere either to Santoshnagar, Hayatnagar, GRF or any other places. It is an admitted fact that GRF is a place where CRIDA is performing extensive research for a long time and hence it cannot be said that the GRF has been recently created to deny some benefits to the applicant by shifting his headquarters. Though the applicant submits that the others posted to GRF continued to draw HRA and CCA as if they were headquartered at Santoshnagar office, he is singled out to deny him HRA and CCA showing his headquarters as GRF. It is for the department to decide where one should be headquartered. Just because some others ^{are} though working at GRF is shown as headquartered elsewhere it does not mean that the similarly treatment should be given to the applicant also irrespective of any other considerations. It may be possible that those Scientist and other research staff posted at GRF may be having some work at Santoshnagar and GRF and on that consideration their headquarters could have been retained at Santoshnagar. The applicant himself states that he is the only non-scientific staff posted to GRF. That itself shows that there is working for one Ministerial

staff at GRF^{and} the applicant is posted there as he may have been found fit to discharge the duties at GRF location. Whether only he was posted in GRF is regular or not is not a point for consideration in this OA. Under the rules the Director has got the full powers to post him at GRF and treat it as his headquarters. Though the applicant submits that shifting of headquarters is only in respect of avoiding TA, the circular dated 28.5.94 does not restrict the powers of the Director to shift the headquarters only for the purpose of disallowing TA. The circular referred to above is very comprehensive and it clearly indicates that shifting of the headquarters is for all purposes including payment of allowances such as TA, HRA and CCA. When this rule is in existence the applicant cannot get any benefit unless this circular is set aside. But as can be seen from the relief portion of the OA that there is no prayer for quashing or setting aside this circular. Hence when the rule exists giving full powers to the Directors to shift the headquarters, the applicant cannot say that the shifting of the headquarters is restricted only for the purpose of disallowing the TA. This circular empowers the Directors to shift the Headquarters not only for disallowing TA but also to regulate the payment of HRA and CCA as per the location of the headquarters in question. If GRF is a place which is not entitled for HRA and CCA, the applicant cannot get HRA and CCA treating Santoshnagar as headquarters for the reasons stated by him. Hence the denial of HRA and CCA to the applicant when his headquarters was shifted to GRF cannot be questioned and hence nonpayment of HRA and CCA to the applicant is not irregular.

6. The applicant submits that he had already written to the Director of the Institute stating that he is prepared to pay back the transfer allowance drawn by him when he was transferred to GRF letter dated 1.3.96 and as he is prepared to pay back

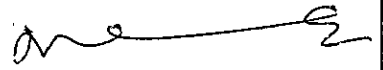
the transfer allowance, he should be treated as headquarted at Santoshnagar. But that letter was issued after filing of this OA on 16.1.96. That itself shows that the representation dated 1.3.96 is only a ruse to justify his stand for getting HRA and CCA. Hence his readiness to refund the transfer allowance drawn by him earlier is with a motive to justify his contentions in this OA. Even if the applicant now refunds the transfer amount he cannot claim any benefit for granting him HRA and CCA as his headquarters ^{was} transferred to GRF in accordance with the departmental instruction by the competent authority.

7. The next contention of the applicant is that the GRF is only a Farm and hence it cannot be treated as a headquarter. This contention is not covered by any facts. The office order dated 28.5.94 clearly states that the Director can transfer the headquarters of employees under his control to GRF. When this circular is in force the contention of the applicant in this OA as above cannot be upheld.

8. Though the applicant submits that this circular dated 28.5.94 had not been brought to his notice, ignorance of rule cannot be a reason for granting any relief to the applicant. Further the applicant being a Superintendent cannot be ignorant of this circular as such circulars are circulated through the incharge of the office and senior ^{super visors.} ~~superiors~~. Further the applicant submits that this letter though prescribes GRF as one of the headquarters there is no reason to transfer him from Santoshnagar to GRF. This submission does not appear to be in order. The circular prescribes GRF as one of the headquarters and the competent authority has transferred the applicant to one of the prescribed headquarters. Hence there is nothing unusual or abnormal in this transfer.

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9. In view of what is stated above I find no merit in this OA and the OA is dismissed as having no merits. No costs.



(R. RANGARAJAN)
Member (Admn.)

Dated: 8th July, 1996

(Dictated in Open Court)

Prithvi
Dr. Registrar

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Contd. - 7/

O.A.88/96.

Copy to:-

1. The Director, Central Research Instt. for Dryland Agri., Santoshnagar, Hyd.
2. The Sr. Administrative Officer, CRIDA, Santoshnagar, Hyd.
3. Officer-in- Charge, General Research Farm, CRIDA, Santoshnagar, Hyderabad.
4. The Director General, I.C.A.R., Krishi Bhavan, New Delhi.
5. The Secretary, ICAR, Krishi Bhavan, New Delhi.
6. The Deputy Director General (Soils), I.C.A.R., Krishi Bhavan, New Delhi.
7. One copy to Sri. B.Gandhi, Party in person, CAT, Hyd.
8. One copy to Sri. N.R.Devaraj, Sr. CGSC, CAT, Hyd.
9. One copy to Library, CAT, Hyd.
10. One spare copy.

Rsm/-

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COMPARED BY

CHECKED BY
APPROVED BY

THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH HYDERABAD

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

DATED: 27/06

ORDER/JUDGEMENT

O.A. NO. / R.A. / C.P. NO.

O.A. NO.

in
88/96

ADMITTED AND INTERIM DIRECTIONS ISSUED

ALLOUED

DISPOSED OF WITH DIRECTIONS

DISMISSED

DISMISSED AS WITHDRAWN

ORDERED/REJECTED

NO ORDER AS TO COSTS.

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II COURT

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