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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
HYDERABAD BENCH

O.A. 192/97 & 193/97

Date of decision: 19.5.1998

Between:

1. M. Nageswara Reddy

.. Applicant in  
O.A.192/97

2. I.V.R.S. Prasad

.. Applicant in  
O.A.193/97

A N D

1. The Comptroller and Auditor  
General of India,  
New Delhi - 110 002

2. The Prl. Director of Commercial  
Audit & Ex-Officio Member,  
Audit Board,  
AG's Office Complex,  
Bangalore - 560 001.

3. The Sr.Resident Audit Officer,  
Resident Audit Office, HAL,  
Balanagar,  
Hyderabad - 500 042.

.. Respondents in  
both the OAs

Counsel for the Applicants: Mr. C. Suryanarayana

Counsel for the respondents: Mr. G. Parameshwara Rao

Coram:

Hon'ble Shri H. Rajendra Prasad, Member (A) <sup>9/</sup><sub>11</sub>

..2/-

O.A. 192/97 & 193/97

J U D G M E N T

(Per Hon'ble Shri H. Rajendra Prasad, M(A)

O.A.192/97

On his posting as Asstt. Audit Officer in the Resident Audit Office at Hindustan Aeronautics Ltd., Hyderabad Division, the applicant applied on 12-9-95 for allotment of suitable residential accommodation. The application was addressed to General Manager, HAL, Hyderabad Division, and was forwarded by the Resident Audit Officer on the same date. On 13-9-95 HAL authorities allotted to the applicant a 'D' type quarter in their township on a rent of Rs.667/- per month. The allotted accommodation was occupied by the applicant on 1-10-1995. No HRA was, however, drawn in favour of the applicant. As the HAL authorities were charging market-rent for the accommodation provided to him as a matter of Corporate policy, the applicant requested his departmental superiors to draw and disburse to him the admissible HRA as per his pay-scale, etc. His immediate superior (Respondent No.3) addressed Respondent No.2 in the matter on 24-10-96 and recommended that since the HAL was demanding market-rent, the question of sanctioning/refunding the HRA which was being deducted from the applicant's salary, <sup>needed to be considered or, alternatively,</sup> to persuade the HAL authorities to levy only licence-fee applicable to similar type of Govt. accommodation by other public sector undertakings.

A case in respect of telecommunication staff posted in another public sector undertaking in the city, BHEL, which is similar to the present one

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was examined in detail by this Tribunal in  
OA 945/94. The case was disposed of with the  
following directions :

"...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. "

Later in OA 67/95, a similar case was disposed of  
wherein it was held that the quarters were allotted  
to the employees on their request and they were,  
therefore, to be treated as principal allottees,  
and that the recommendations made <sup>in that instance</sup> by the Department  
merely amounted to identifying the employees  
belonging to the Department and thereby to standing  
surety in case the said employees allotted with  
the quarters failed to pay the licence fee and other  
charges. In that view the Department could be  
regarded only as a proforma-allottee for the purpose  
solely of surety and they had no hand in the  
allotment of quarters to the applicants therein.  
From the above analysis of facts it transpired that  
the applicants got the quarters allotted to them  
on their own request and effort, occupied them in  
their individual capacity, and paid the rental charges  
directly to the PSU. Even in the list attached to the

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letter dt. 26-3-96, filed by the respondents in the said OA., nowhere was it stated that the Department had been allotted the quarters and that these were in turn reallocated to the applicants by the Department. The OA was therefore disposed of: (a) with a finding that the applicants were entitled to HRA even though they were occupying the quarters belonging to a Govt. of India undertaking in its Township; (b) with a declaration that the applicants should be paid HRA; and (c) with a direction that recovered HRA should be refunded to them.

2. The respondents take the stand that judgments referred to were applicable to only the parties in that case, and further that unless the existing general orders are amended by the Government, the relief granted to the applicants in a particular case cannot be routinely extended to others. No changes have been made by the Govt. in the existing orders in the matter of payment of HRA where accommodation has been provided not by Govt. but by any agencies like Public Sector undertakings.

3. The applicant<sup>is</sup> aggrieved by the above decision. The facts of this case are not any different from the facts contained in the earlier OA. The applicant applied for allotment of suitable residential accommodation to the General Manager, HAL. The application was merely forwarded by the Resident Audit Officer to the said General Manager. The allotment of the quarter was specifically in the name of applicant although the same was routed through the Resident Senior Audit Officer since the latter had forwarded the application in the first instance and as the applicant happened to be working in the office of the RAO. Certain payments towards rent and for consumption of water and electricity

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were also made by the applicant directly to HAL. In all these transactions no indication is in evidence that the Respondents <sup>had</sup> made any direct <sup>had</sup> contribution or <sup>had</sup> provided any assistance in the matter of allotment, as has been claimed by them, <sup>of the counter-affidavit.</sup> somewhat baldly and cryptically, in para-4. Over and above this, it is noticed that the HAL authorities decided to levy market-rent from allottees - an amount considerably higher than the usual licence fee or the normal share of 10% of the pay ordinarily liable to be paid by the occupants of the Govt. accommodation. Such being the case, logic demands that HRA should be paid to the employees if they are not to be put to avoidable financial strain without corresponding justification.

4. In the light of the above facts, it is clear that the ratio laid down in the OAs cited above (OA 945/94 and 67/95) are applicable to the present applicants as well. Besides the facts and circumstances in this OA themselves compel acceptance of the applicant's prayer. It is therefore directed that HRA at usual rates be drawn and paid to the applicant along with his pay from the month of June, 1998. Arrears of HRA on the same basis shall be drawn and disbursed from the date of occupation of the quarters by the applicant, at the latest by 1-8-1998.

5. Thus the OA is disposed of.

O.A. 193/97

Judgment in OA 192/97 is applicable to OA 193/97 since the facts in both the cases are identical.

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O.A. 192 &amp; 193/97

To

1. The Comptroller and Auditor  
General of India, New Delhi-2.
2. The Principal Director of Commercial  
Audit & Ex-Officio Member,  
Audit Board, AG's Office Complex,  
Bangalore-1.
3. The Sr. Resident Audit Officer,  
Resident Audit Office, HAL,  
Balanagar, Hyderabad-42.
4. 2 copy to Mr.C.Suryanarayana, Advocate. CAT.Hyd.
5. 2 copy to Mr.G.Paramaswar Rao SC for AG. CAT.Hyd.
6. One copy to HHRP.M(A) CAT.Hyd.
7. One copy to DR(A) CAT.Hyd.
8. One spare copy.

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I COURT

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
HYDERABAD BENCH AT HYDERABAD

THE HON'BLE MR. JUSTICE

VICE-CHAIRMAN

AND

THE HON'BLE MR. H. RAJENDRA PRASAD: M(A)

DATED: 19-5-1998.

ORDER/JUDGMENT

M.A./R.A./C.A.No.

in

O.A.No.

192 & 193/97

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.

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3 Spare Copies

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