

CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH

OF GIEPL APPLICATION NO. 623 OF 1997

B. Narasimha Reddy Applicant(s)

VERSUS

~~Union of India, Repd. by~~

Chief Poor Master Genl.,


AR, Hyd & 3 others


Respondent(s)

The application has been submitted to the Tribunal by
Shri PNA Christian Advocate/

~~Party in person~~ Under section 19 of the Administrative
Tribunal Act, 1985 and the same has been scrutinised with
reference to the points mentioned in the check list in the
light of the provisions in the Administrative Tribunal
(Procedure) Rules 1987.

The Application is in order and may be listed for
Admission On _____


Scrutiny Asst.


DEPUTY REGISTRAR (JUDL)

CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH: HYDERABAD

I N D E X S H E E T

O.A.NO. 623 of 1997.

CAUSE TITLE B. Narasimha Reddy

V E R S U S

the copm. by A.P. Civil Hud

385

SL.NO.	Description of documents	Page No.
1.	Original Application	1 to 10
2.	MATERIAL PAPERS	11 to 27
3.	Vakalat	1
4.	Objection Sheet	—
5.	Spare Copies	4
6.	Covers	4

REC:- To declare that the applicant is entitled to receive full HRA even during occupation of quarters of R 4 and direct the Respondents 1 to 3 to pay him HRA and recovered amounts.

APPENDIX - 'A' FORM

FORM - I
(Sub Rule-4)

Application U/S 19 of the Administrative Tribunals Act, 1985

Single IN THE HONOURABLE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD
सिंगल केस
SINGLE MEMBER CASE O.A.No. *623* of 1997 *Drawal of HRA*
B. Narasimha Reddy ... Applicant
and

THE CHIEF POST MASTER GENERAL,
A.P. CIRCLE, HYDERABAD AND 3 OTHERS

पोस्टल/POSTAL *Postel* *11*
... Respondents

I N D E X

Sl. No.	Description of the document	Annexure No.	Page Nos.	
			From	To
01.	Application		1	10
02.	Index to Material papers		11	
03.	Copy of the Allotment letter dated <i>9-8-95</i> issued by EHEL	I	12	13
04.	Rent Receipt dated <i>19-7-96</i> in proof of payment of rent to EHEL	II	14	
05.	Calculation Memo of arrears of HRA payable to the Applicant	III	15	
06.	Copy of the Representation given by the Applicant to the Respondent authorities	IV	16	
07.	Copy of the Judgment dated 5-7-96 delivered in OA No. 67/95 by the Hon'ble Central Administrative Tribunal, Bench at Hyderabad	V	17	25
08.	Copy of the Representation given by the Applicant to the Respondent No.2	VI	26	
09.	Copy of the Lr.No. TAL/LC/5-3/95 dt. 11-9-96 from the office of the 1st Respondent	VII	27	
10.	Copy of the Representation dated given by the applicant	VIII		

For use in Tribunal's Office

COUNSEL *for* APPLICANT

Date of Filing :
or
Date of Receipt by post :
Registration No. :

RECEIVED COPY

N R. Divakar
Sr. CGSC
Allotted to:

for Registrar



IN THE HONOURABLE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD

O.A.No. 623 of 1997

Between : B. Narasimha Reddy
and

.... Applicants

THE CHIEF POST MASTER GENERAL,
A.P. CIRCLE, HYDERABAD AND 3 OTHERS

... Respondents

STATEMENT SHOWING THE EVENTS IN CHRONOLOGICAL ORDER

Sl. No.	Date	Particulars of events	Page No.
01.	9-8-95	The Applicant was allotted Quarters in BHEL	3
02.	Feb. '94	The respondent Postal Department stopped payment of HRA to Applicants	4
03.	March '94	The Respondent Postal Department revised the rate of HRA w.e.f. 03/91	5
04.	March '94	While paying arrears of HRA at the revised rates, the respondent Postal Department deducted HRA already paid to the Applicant till 01/94	5
05.	6-7-95	Applicant gave representation	5
06.	05-07-95	This Hon'ble Tribunal delivered Judgment in O.A.No. 67/95	5
07.	30-7-96	Applicant gave representation to Respondent No.2	5
08.		Applicant gave representation to Respondent No.2	
08.	11-09-96	First Respondent directed the R-2 to pay HRA only to the applicants in O.A.No. 67/95 in obedience to the Judgment in O.A.No. 67/95	6

Hyderabad

Date : 7/5/97

Advocate for Applicant

IN THE HONOURABLE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD

O.A.No. 623 of 1997

Between : B. Narasimha Reddy S/o B. Balreddy, aged 34 yrs
Occ!- Post man No Post Office R.C. Puram 1st Ind; Applicant
Rt. No 268 D BHEL, T/S R.C. Puram Hyderabad
The description of the applicant is the same as given above in the

cause title and the address for service of summons and notices on the
applicant is that of his counsel :

M/s. P.N.A. Christian
Shobhana Mokaat
G. Satish Manohar

Advocates
10-3-1/3 (I Floor)
East Marredpally
Secunderabad,

and

- 1) CHIEF POST MASTER GENERAL, AP CIRCLE HYDERABAD-1
- 2) SUPERINTENDENT OF POST OFFICE,
SANGAREDDY DIVISION, SANGAREDDY-502 001
- 3) POST MASTER, SANGAREDDY H.O. 502 001
- 4) THE SENIOR MANAGER, ESTATE, BHEL;
RAMACHANDRUPURAM, HYDERABAD-32

... Respondents

The description of the respondents is the same as given above in
the cause title and address for service of summons and notices on the
respondents is the same as given above in the cause title.

....2/-



1. Particulars of the Order against which
the application is made :

The applicant in this Application impugns the illegal action of the first three respondents in not paying him the House Rent Allowance w.e.f. 1-8-95..... and recovering the amounts already paid to him as H.R.A. on account of his staying in the Quarters belonging to Bharath Heavy Electricals Ltd., a Government of India Undertaking.

2. Jurisdiction of the Tribunal :

The applicant declares that the subject matter of the action of the Respondent authorities against which he wants redressal is within the jurisdiction of this Hon'ble Tribunal under Section-14 of the Administrative Tribunals Act, 1985.


3. Limitation :

The Applicant further declares that the application is thin the limitation period prescribed in Section-21 of the Administrative Tribunals Act, 1985.

4. Facts of the case :

1) The applicant submits that he is working in the Respondent Postal Department as post man..... under the control of the First three respondents. The third respondent is the Officer who disburses the salary of the applicant every month. In Sangareddy Division, Sangareddy District in the vicinity of a Government of India Undertaking called Bharat Heavy Electricals Limited (for short hereinafter referred to as "BHEL") has got a big town-ship. There are many family quarters in the said town-ship under the control and supervision of the Fourth Respondent. The applicant is not provided with accommodation by the respondents Postal Department.

....3/-



The area in which the applicant is serving the Department is not so developed one and since it is difficult to get accommodation in the private houses with necessary amenities, the applicant approached the authorities of the BHEL through his personal oral and written requests for allotment of a quarter to him on payment of necessary monthly rent to be paid by him. The respondent postal department has neither requested the authorities of BHEL for allotment of quarters to the applicants nor recommended his case. On the persuasion of the applicant, the authorities of the BHEL allotted him the quarters bearing No. 208. D. . . A copy of the said Allotment letter dated 9-8-95 is filed herewith as Annexure-I to this O.A. The applicant submits that he secured the said accommodation by his direct efforts and not through any assistance and help of the respondent postal department and that he is directly paying the rent which is called "Licence Fee" to the BHEL every month as per the extant Rules in force. A copy of the receipt evidencing the payment of Rent by the applicant directly to the BHEL is filed herewith as Annexure-II to this O.A. ii) The applicant submits that he, being a regular employee of the Respondent Postal Department, is entitled for payment of House Rent Allowance by the respondent Postal Department. The eligibility condition for drawal of House Rent Allowance payable to Government Servants is controlled by Para-5 (c) of the conditions for the drawal of the House Rent Allowance given in *House Rent Allowance Rules* reads as follows :

" (C) A Government servant shall not be entitled to HRA, if

- i) he shares Govt. accommodation allotted rent-free to another Government servant; or

ii) He/she resides in accommodation allotted to his/her parents/son/daughter by the Central Government, State Government, an autonomous Public Undertaking or Semi-Govt. Organisation such as Municipality, Port Trust, Nationalised Bank, LIC of India, etc.

iii) His wife/her husband has been allotted accommodation at the same station by the Central Govt., state Govt.; an autonomous Public Undertaking or Semi-Govt. Organisation such as Municipality, Port Trust, etc. whether he/she resides separately in accommodation rented by him/her. "

iii) The applicant submits that he is neither sharing the Government accommodation allotted rent free to any other Government servants nor residing in an accommodation allotted to his parents, sons, daughters by any Central Government or State Government or Autonomous Body, Public Undertaking or from any Government Organisation such as Municipality, Port Trust, Nationalised Banks, Life Insurance Corporation of India and further his wife has been allotted accommodation at the station at which he is working. The applicant submits that in view of the above, he is fully entitled to receive the entire House Rent Allowance. The applicant was being paid H.R.A. until 31-7-95. . . But curiously it was stopped from 1-8-95. . and the respondent postal department is continuing the stoppage of payment of House Rent Allowance to the applicant even as on date. The applicant further respectfully submits that in March '94 the respondent Postal Department was pleased to extend the benefit of entitlement of House Rent Allowance at the rate at which it is paid to the employees working in the city of Hyderabad to the employees working in Ramachandrapuram w.e.f. March '91 and as such the applicant became eligible for the benefit of House Rent Allowance at the revised

....5/-

[Signature]

rate from the said date. And while paying the arrears of revised House Rent Allowance in the month of March '94, the respondent Postal authorities deducted all the arrears of House Rent allowance already paid to the applicant from 1.8.95....., the date he occupied the BHEL Quarters till January '94. Therefore, the applicant has not been paid his House Rent Allowance from the time he occupied the Quarters. The applicant submits that the amount of arrears payable to him is Rs 3000/- calculated from 1.8.95..... to 31-3-95 till date. A Calculation Memo showing the arrears payable to him is filed as Annexure-III to this O.A. The applicant submits that aggrieved by the action of the Respondent Postal Department, he gave a representation dated 6.9.95 (Annexure-IV) to the respondent postal department, but the respondent postal authorities did not consider his application.

iv) The applicants submit the certain similarly placed employees approached this Hon'ble Tribunal for redressal of similar grievance through the O.A.No. 67/95 and this Hon'ble Tribunal by its Judgment dated 05-07-96 was pleased to allow the said O.A. holding that the applicants in O.A.No. 67/95 are entitled for House Rent Allowance, eventhough they are occupying the Quarters belonging to BHEL. A Copy of the said orders passed by this Hon'ble Bench in O.A.No.67/95 dated 05-07-96 is filed herewith as Annexure-V. The applicant further respectfully submits that after the said judgment was pronounced by this Hon'ble Tribunal, the Applicant gave another representation dated 30.7.96 (Annexures-VI & VII) to the respondent Postal Authorities bringing the said Judgment to the notice of the Second

....6/-



Respondent, but the said respondents did not give any reply so far. The applicant submits that in fact the Respondent Postal authorities ought to have paid the House Rent allowance to the applicant even without waiting for the representation after the Judgement dated 05-07-96 was pronounced. But unfortunately they did not choose to do so. The applicant submits that the first respondent addressed a letter dated 11-09-96 (Annexure-VII) to the Second Respondent in the said O.A. to implement the Judgment in O.A. No. 67/95 to the applicants in the said O.A. only. By the action of the first respondent, the applicant is put to monetary loss resulting in violation of his constitutional right guaranteed under Article-300 A of constitution of India. The applicant further submits that by the first respondent not paying the applicant his HRA and paying the same to the applicants in O.A. No. 67/95, his fundamental right to equality before Law as enshrined in Articles 14 & 16 of Constitution of India are being violated. The applicant submits that the action of the respondent postal authorities is illegal, unlawful, opposed to Rule-5 (c) of Rules governing the payment of HRA to the employees and opposed to the Principles of natural justice and opposed to the Judgment dated 05-07-96 of this Hon'ble Tribunal delivered in O.A.No. 67/96, opposed to Articles 14,16 and 300 A of constitution of India. Hence the O.A. on the following amongst other.

G R O U N D S

- a) That the applicant is fully entitled for the House Rent Allowance as an employee of the Respondent department.

....7/-

[Signature]

- b) That the Rule-5 (c) relating to the conditions for drawal of HRA has no application to the circumstances under which the applicant was allotted the Quarters under the control of 4th respondent and for with-holding the House Rent Allowance by the first three respondents.
- c) That the first three respondent authorities ought to have seen that the Quarters allotted to the applicant was done on the persuasion of the applicant without any assistance and help from the Respondent Postal Department.
- d) That the applicant is directly paying the rent which is called "Licence Fee" to the BHEL.
- e) That the first three respondents ought to have seen that this Hon'ble Tribunal held that the applicants in O.A.No. 67/95 who are similarly placed like the applicant are entitled to receive the House Rent Allowance and as such the applicant is also entitled for the H.R.A.
- f) That the first three respondents ought to have paid the applicant the arrears of his HRA as well as the current HRA following the Judgement dated 5.7.96 in O.A.No. 67/95 by this Hon'ble Bench.
- g) Other grounds will be urged at the time of hearing the O.A.

5) Details of remedies exhausted :

The applicant submits that the applicant approached the respondent Postal Department through his representation dated . 6-9-95 . . . but no action was taken by the first respondent so far. Thereafter, after Judgement dated 5.7.96 was delivered in O.A.No. 67/95, the

applicant submitted another representation dated 30-7-96 to the second respondent which was forwarded to the First respondent and no action was taken by the Respondent Postal Department on the said representation too. Further by letter dated 11.09.96 the first respondent made it clear that the benefit claimed for in O.A.No. 67/95 was being implemented in respect of the applicants in O.A. No. 67/95 only. They are, therefore, constrained to approach this Hon'ble Tribunal.

6) Matter not previously filed or pending with any other court :

The applicant further declares that he has not previously filed any application, Writ Petition or Suit or any other proceedings regarding the matter in respect of which this application has been made before any court or any other authority or any other bench of the Tribunal nor any such application, Writ Petition or Suit is pending before any of them.

7) Relief sought :

In view of the facts mentioned in Para-4 above, the applicant prays that the Hon'ble Tribunal may be pleased to pass an appropriate Order declaring that the applicant is fully entitled to receive and be paid full HRA even during his being ^{presently} in occupation of the Quarters No. 268.D in BHEL township under the control of the 4th respondent and that the action of the respondent Postal authorities in

....9/-

Yme

not paying the House Rent Allowance to the applicant as illegal, unlawful, opposed to the equality before Law as enshrined under Article 14 & 16 of Constitution of India and opposed to Article-300 A of Constitution of India and for issuing a consequential direction to the first three respondents to pay the applicant forthwith the unpaid, with-held and recovered arrears of House Rent Allowance from 1-8-95..... which works out to Rs. 3000/- (Approx) till the date of 31-3-92 filing of this O.A. and issue a further direction to pay him his House Rent Allowance in future regularly in his salary and pass such other order or orders as this Hon'ble court deems fit and proper in the ends of justice.

8) Interim relief, if any, prayed for :

Pending disposal of the above O.A., the Hon'ble Tribunal may be pleased to direct the first three respondents to pay the applicant his House Rent Allowance regularly every month and pay him the arrears of House Rent Allowance from the date he was stopped paying HRA and pass such other Order or Orders as this Hon'ble Court deems fit and proper in the ends of justice.

9) Particulars of the Bank Draft/Postal Order filed in respect of the Application Fee :

01. Name of the Bank on which :
drawn

02. Demand Draft No. :
on :

[Signature]

03. Indian Postal Order No.

:

23/266.

04. Name of the Issuing P.O.

:

H.P.O

05. Date of Issue of P.O.

:

3/5/97

06. Post Office at which payable

:

Rs. 50/- A
U.P. B.C. D. Remover

10) List of enclosures :

01. Vakalat

13/-

02. Application Fee of Rs.

50/-

03. Material papers

(As detailed in Appendix - 'A' form)

VERIFICATION

I, B. N. N. S. R. Reddy, the applicant in the above O.A. do hereby verify that the contents of Paras Nos. 1 to 4 are true to the best of our knowledge and Paras Nos. 5 to 9 are believed to be true on legal advice and that I have not suppressed any material facts.

B. N. N. S. R. Reddy
APPLICANT

Counsel for the Applicant.

To
The Registrar
Central Administrative Tribunal
Hyderabad Bench
Hyderabad

IN THE HONOURABLE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD

O.A.No. of 1997

Between : B. Narasimha Reddy
and

... Applicant

THE CHIEF POST MASTER GENERAL,
A.P. CIRCLE, HYDERABAD-1

... Respondents

I N D E X

TO THE MATERIAL PAPERS (DOCUMENTS RELIEF UPON) BY THE APPLICANT

Sl. No.	Description of the document	Annexure No.	Page Nos.	
			From	To
01.	Copy of the Allotment letter dated ... <u>7-8-95</u> ... issued by BHEL	I		12 & 13
02.	Copy of the Rent Receipt dated <u>1.7-7-96</u> in proof of payment of rent by the applicant to BHEL.	II		14
03.	Calculation Memo of arrears of HRA payable to the Applicant	III		15
04.	Copy of the Representation given by the applicant to the respondent authorities	IV		16
05.	Copy of the Judgement dated 5.7.96 delivered in OA No. 67/95 by the Hon'ble Central Administrative Tribunal, Bench at Hyderabad	V		17 to 25
06.	Copy of the representation given by the applicant to the respondent No.2	VI		26
07.	Copy of the Lr.No. TAL/LC/5-3/95 dt. 11.09.96 from the Office of the 1st respondent.	VII		27
08.	Copy of the representation dated ... given by the applicant	VIII		

Hyderabad

Date : 7/5/97

Advocate for Applicant

CVL-011
REV-0

BHARAT HEAVY ELECTRICALS LIMITED
RAMACHANDRAPURAM : HYDERABAD-32
(TOWNSHIP ADMINISTRATION)
ESTATE OFFICE

No. HY:TA:HAC:E:02695

DATE: 9/8/95

ALLOTMENT ORDER

Shri: B. Narasimha ReddyDesignation: Asst. E.O.

Staff No. _____

now residing in quarter No. _____

Dept. Code: _____

is hereby permitted by the Estate Officer, M/s. Bharat Heavy Electricals Limited, Ramachandrapuram, Hyderabad-500 032, to occupy Quarter No.: 2681D Type R on or before 17.8.95. He will be known as the service occupant/licencee and he will be charged fixed occupancy water and conservancy charges per minimum applicable at such rates as may from time to time to be fixed by the Management.

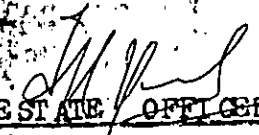
2. The above quarter should be occupied within 8 days from the date of this order. On taking possession, the service occupant must satisfy regarding the condition of the building and must furnish receipt, with the list of inventories in duplicate, duly signed by him, to the Estate Officer referred to.

3. The service occupant will be required to confirm to the stipulations contained in the BHEL House Allotment Rules in force governing the occupation of Company's quarter and all other such rules/modifications/amendments laid down by the competent authority from time to time.

4. Should an occupant fail to give the due notice to the Estate Officer of his intention to vacate the building as aforesaid, he will be held responsible for all damages shortages which may be discovered when the building is inspected by the Engineer concerned subsequent to its vacation and in addition he will be charged prescribed occupancy charges in respect of the buildings as applicable to commercial organisations until it is re-occupied by another allottee subject to a minimum recovery of one month's prescribed occupancy charges as applicable to commercial organisations.

5. The service occupant shall not tamper with/damage/remove or put out of commission any of the fittings fixtures and other conveniences provided in the quarter. If anything is found tampered with/damaged/put out of commission or removed, necessary recovery will be effected from the service occupant as provided for under the allotment rules in force.

6. Water supply, Electricity charges will be recovered as per the charges to be fixed by the Company from time to time.
7. The occupant shall not transfer/assign/alienate or in any way part with the interests of benefits or privileges, if any granted to him under the allotment rules and any breach of the terms and conditions of the allotment rules shall entail termination of service occupancy forthwith.
8. The service occupant must contact the Mandal Revenue Officer for the issue of a Ration Card after getting an occupancy certificate from the Estate Office.
9. While taking the allotment, you must be present with your Lock and Key.
10. The occupant should not rear a garden on the TERRACE by artificially creating a place by dumping earth or any other means.
11. You are requested to communicate your willingness for occupation within four days, failing which the allotment will be cancelled.


ESTATE OFFICER

To
Shri. B. Narasimha Reddy
Staff No. 1076
Through Post Office
K. Agilwala
Sub Post Master (Jr)
Mainanandrapuram-N.P.
Hyderabad-500 03



AC - 060

REV - 2

BHARAT HEAVY ELECTRICALS LTD.

RAMACHANDRAPURAM, HYDERABAD-500 032.

PHONES : 225353, 241011, FAX : 040 - 281953

GRAMS : BHARATELEC TELEX 0425- 6212

Regd. Office : BHEL HOUSE, SIRI FORT, NEW DELHI - 110 049

CASH RECEIPT

CR. NO. : 85895

CR. DT. : 19/07/96

Annexure II

RECEIVED RS. 169.00 (RUPEES ONE HUNDRED SIXTY NINE AND PAISE NIL ONLY)

FROM SR/MS/MESSRS NARSIMHA REDDY B. POSTAL , CODENO QM386 268-D

BY CASH

BEING 07/96 RENT AND ALLIED CHARGES

FOR AND ON BEHALF OF BHEL

(DD/PO/CHEQUE SUBJECT TO REALISATION)

INCHARGE CASH OFFICE/CASHIER

ACCOUNT CODE

DR. AMOUNT

CR. AMOUNT

FOR INTERNAL USE IN SECTION

208000
240000

169.00

169.00

mis

81/05895

QM386 268-D

CALCULATION MEMO OF AMOUNTS OF HRA PAYABLE TO THE APPLICANT

B. Narasimha Reddy post man

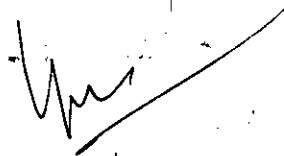
S.No.	Basic Pay	PERIOD		No. of Months	Rate of HRA	Amount of HRA
		From	To			
1.	825	1-8-95	31-12-95	5	150	750
2.	850	1-1-96	31-12-96	12	150	1800
3.	825	1-1-97	31-3-97	3	150	450
4.						
5.						
6.						
7.						
8.						
9.						
10.						

Total HRA:

3000/-

Total HRA :

3000/-



Date: 6-9-'95

From

B. Narasimha Reddy
Postman
Ramachandrapuram H.E.
Hyderabad

To

The Superintendent of POS
Sangareddy Division
Sangareddy - 502 001

Sir,

Sub: Request for grant of HRA - Request - Reg.

I respectfully submit that the authorities of BHEL have allotted Quarters to me on my application and I have been paying rents etc. to the authorities of BHEL as per their Demand Notice every month.

I submit that I was paid House Rent Allowance upto 31-7-'95, even at the revised rate i.e. benefit of entitlement of HRA on par with the employees working in Hyderabad City to the employees working in Ramachandrapuram also, during March 1994. But curiously I have not been paid the House Rent Allowance from 1-8-'95 from which month I occupied the Quarters in BHEL on the plea that the BHEL Quarters are Government Quarters and therefore I am not entitled to House Rent Allowance.

I ~~XXXXXX~~ respectfully submit that though the Quarters of BHEL are Government Quarters, we have been allotted by the BHEL authorities on our request and not at the instance or request of the Postal Department and therefore we are paying rent and other charges to the BHEL authorities as per their Demand Notice and we have not been allotted the Quarters freely without any rent or the Quarters are not provided by the Postal Department to me.

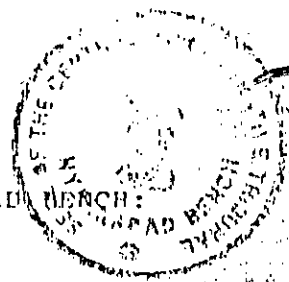
I, therefore, request you to kindly pay me the House Rent Allowance every month together with my salary to meet the demand of the BHEL authorities for payment of rent and also kindly repay me the already with-held amount towards HRA from the date of allotment of Quarters to me.

An early action is solicited.

Thanking you Sir,

Yours faithfully,


(B. NARASIMHA REDDY)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD
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.AMBAJAH,
6. G.SATYANARAYANA,
7. M.VENKATESWARA RAO,
8. M.M.APPA,
9. M.SANCAIAH,
10. M.MALLESWARA RAO,
11. MOHD. KHAJA GHAJI UDDIN,
12. K.RAMA KRISHNA,
13. D.KASAI AH

.. 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,
DHFL, 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

[Signature]

mana, 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.

2


[Signature]

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)/B2-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.


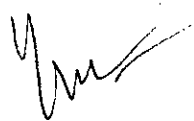
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7. The main controversy now is whether the quarters in occupation of the applicants at BHBL Township can be said to be the Govt. accommodation for the purpose of admissibility of HRA to the applicants.

8. The law in this connection has been analysed from the various citations and it was held in O.A.NO.945 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 (TT), 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

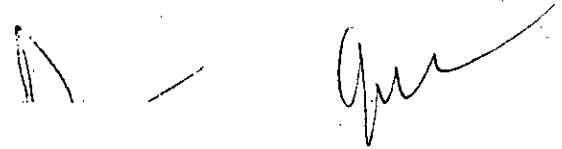
 

that the licence fee has been paid direct by the applicants themselves and the quarters were obtained by their pursuation with the BHEL authorities and the bills for collection of licence fee will prove that the billing for payment of licence fee etc. is directly done by the BHEL and sent to the allottee 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



hereunder as requested by you.

- 23 -

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

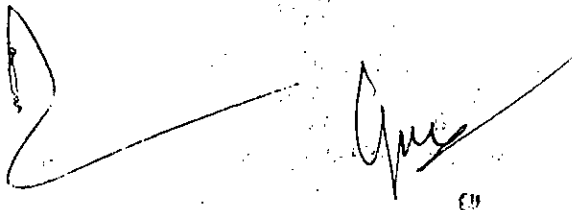
List of employees staying in the BHEL quarters is enclosed for your information."

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





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. Undertaking, in BHEL Township. If any recovery had been made for the alleged excess payment of HRA the same should be returned back to them along with the arrears 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.

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From B. NARSIMHA REDDY
Post MAN
R.C. PURAM HE
502032

To
The Superintendent of POS
Sangareddy Division
Sangareddy - 502 001

Sir,

Sub: Grant of HRA - Reg.

The authorities of BHEL have allotted a quarter to me on my application and I have been paying rent etc. as per BHEL's demand notices.

I am not being paid the HRA on the plea that BHEL Quarters are Govt. Quarters and therefore, I am not entitled to the payment of HRA.

In view of the order dt. 5.7.96 in OA No. 67 of 1995 filed by SWAROOPA S. KATLAPARTI & 12 OTHERS against THE SR.SUPERINTENDENT OF TELEGRAPH TRAFFIC HANAMKONDA AND 2 OTHERS, I am entitled to payment of HRA by the Department. I therefore, request you kindly to apply the principles laid down in the said order dt. 5.7.95 and take action to grant me HRA with effect from the date of my joining at Ramachandrapuram P.O., BHEL or from the date from which HRA entitlement is declared for Ramachandrapuram Staff. I request for early favourable action.

Be pleased to consider,

Yours faithfully,

BHEL Township
Ramachandrapuram HE

Date: 30-7-96

Name: B. Narsimha Reddy
Designation: Post MAN
Office: Ramachandrapuram HE

G.O.I.

M.O.C.

DEPARTMENT OF TELECOMMUNICATIONS : ANDHRA PRADESH CIRCLE

Office of the Chief General Manager Telecom, Hyderabad -500 001

No. TAL/LC/5-3/95

Dated at Hyderabad the
11-09-1996

To

- 1) The Senior Superintendent
Telegraph Traffic
O/O GM Telecom, Warangal Area,
Hanumakonda - 506 050
- 2) The Telecom District Manager
Sangareddy District
SANGAREDDY - 502 050


Sub: Payment of HRA to Telecom Officials
in occupation of BHEL Quarters -
Implementation of CAT Hyderabad
Judgment in O.A. No. 67/95

Kindly refer to C.A.T., Hyderabad Judgment dated
5th July, 1996 in O.A. No. 67 of 1995 filed by Smt. Swarupa
S. Katlaparthi and 12 others to pay HRA and arrears.

2. In this regard, I am directed to state that the
Chief General Manager, Telecom, AP, Hyderabad has decided
to implement the Judgment of the Hon'ble Tribunal to the
applicants only. As such, you are requested to take
immediate necessary action to comply with the Judgment
to avoid contempt of Court/Legal complications.

3. Receipt of this letter may be acknowledged and
compliance reported.

Sd/-
(B.V.R. Setty)
Asst. General Manager (Legal)
O/O the C.G.M., Telecom, A.P. Circle
Hyderabad - 500 001



3. The applicant in OA 617/97 is a Class IV employee. He is occupying the quarter No.219/H in BHEL Township under the control of R-4.

4. The applicant in OA 618/97 is Postal Assitant occupying the quarter No.270/H in BHEL Township under the control of R-4.

5. The applicant in OA 619/97 is Postman occupying quarter No.280/G in BHEL Township under the control of R-4.

6. The applicant in OA 620/97 is Postman occupying the quarter No.277/H in BHEL Township under the control of R-4.

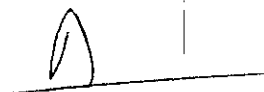
7. The applicant in OA 621/97 is Mail Oversear occupying the quarter No.203/G in BHEL township under the control of R-4.

8. The applicant in OA 622/97 is a class IV employee occupying quarter No.270/G in BHEL Township under the control of R-4.

9. The applicant in OA 623/97 is Postman occupying quarter No.268/D in BHEL township under the control of R-4.

10. The applicant in OA 624/97 is Postman occupying the quarter No.293/H in BHEL Township under the control of R-4.

11. All the applicants were denied House Rent Allowance on the pretext that the quarters occupied by them



31)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH:
AT HYDERABAD

ORIGINAL-APPLICATION-NOS. 616, - 617, - 618, - 619, - 620, - 621,
622, - 623, - 624- of- 1997

DATE-OF-ORDER: - 9th-May, - 1997

BETWEEN:

D.NAGAI AH
N.GANESH
V.BRAHMA REDDY
S.K.DAWOOD
K.MANIKYA RAO
G.VIDYA SAGAR
K.NARAYANA
B.NARASIMHA REDDY
A.SIDDULU



.. APPLICANT IN OA 616/97
.. APPLICANT IN OA 617/97
.. APPLICANT IN OA 618/97
.. APPLICANT IN OA 619/97
.. APPLICANT IN OA 620/97
.. APPLICANT IN OA 621/97
.. APPLICANT IN OA 622/97
.. APPLICANT IN OA 623/97
.. APPLICANT IN OA 624/97

AND

1. The Chief Postmaster General,
A.P.Circle, Hyderabad-1;
2. The Superintendent of Post Offices,
Sangareddy Division, Sangareddy 502001,
3. The Post Master,
Sangareddy H.O. 502001,
4. The Senior Manager, Estate,
B.H.E.L, Ramachandrapuram,
Hyderabad-32.

.. RESPONDENTS IN ALL THE OAS

COUNSEL FOR THE APPLICANTS: Mr. P.N.A.CHRISTIAN

COUNSEL FOR THE RESPONDENTS: Mr. NR DEVARAJ, Sr.CGSC

CORAM:

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

ORDER

ORAL ORDER (PER HON'BLE SHRI R.RANGARAJAN, MEMBER (ADMN.))

Heard Mr.P.N.A.Christian, learned counsel for the applicants and Mr.N.R.Devaraj, learned standing counsel for the respondents in all the OAs.

2. The applicant in OA 616/97 is Postal Assitant and he is occupying the quarter No.289/H in BHEL Township under the control of R-4.

one provided by the govt. and such allottees are disentitled for HRA."

14. It is not necessary for this Tribunal to scrutinise each and every case to adjudicate the eligibility of the applicants in these OAs for the purpose of grant of HRA. The respondents should themselves analyse each case on the basis of the law laid down by this Tribunal and decide the issue in regard to admissibility of the HRA to the applicants in all these OAs.

15. The learned counsel for the respondents submitted that the cases will be analysed in accordance with the norms extracted above and a final decision on each case will be taken.

16. In view of the above submission, we direct the Post Master General, Hyderabad Region, Hyderabad to decide the claim of the applicants for payment of House Rent Allowance and also return the recovered arrears of HRA in accordance with the above norms expeditiously.

17. All the OAs are disposed as above at the admission stage itself. No order as to costs.

प्रमाणित प्रति
CERTIFIED TO BE TRUE COPY

न्यायालय अधिकारी
COURT OFFICER

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal

हैदराबाद ब्याचपीठ
HYDERABAD BENCH

संख्या 0.0616 to 624/97
CASE NUMBER.....
निर्णय का तारीख
Date of Judgement... 9.5.92.....
प्रति लघुप्रार किया गया दिन
Copy Made Ready on... 26.8.97.

अनुभाग प्रमुख (न्य. वि. नं.)
Section Officer (J)

are Government/Autonomous/Public Sector Undertaking quarters. All the 9 OAs are filed praying for direction to R-1 to pay them House Rent Allowance and the recovered arrears of HRA from 1.9.91 or from the date they are eligible for HRA.

12. The applicants rely on the judgment of this Tribunal in OA 67/95 decided on 5.7.96 to state that they are eligible for House Rent Allowance though they are occupying the quarters allotted to them by BHEL.

13. This Tribunal had already laid down certain norms for payment of HRA to those employees who are occupying the quarters belonging to Public Sector Undertakings. The norms laid down in this connection read as follows:-

"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

