20 Annexure-3

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH:
AT HYDERABAD

ORIGINAL APPLICATION NO. 1 of 1995

DATE OF ORDER: 27th 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 GHAJIUDDIN,
12. K.RAMA KRISHNA,
13. D.KASAIAH

.. Applicants

and

1. The Sr.Superintendent,
   Telegraph Traffic,
   Warangal Division,
   Hanmakonda 506 001.

2. The Chief General Manager,
   Telecom, A.P, (Reptg. 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

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.

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 1.12.94 (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.

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

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 assitance, 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

allotted quarters and that the quarters were reallotted 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 reallotted 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 reallotment 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 assitance or help or cooperation was extended by the Departmental authorities in getting the quarters for their employees headquartered in BHEL Township.

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 empoloyees staying in the BHEL quarters is enclosed for your information."

The enclosure showing the Telegraph Department empoloyees 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 quarerters 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

12. From the above dicussions, 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 assitance and help from the Department of Telecom. In view of the law laid down as indicated in 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 accordngly. No costs.

CERTIFIED TO BE TRUE COPY

COURT OFFICER
Central Administrative Tribunal
HYDERABAD BENCH

(17)

From: N. NAGI REDDY
Q.No-124/H
BHEL T/S.
R.C. Puram
Hyderabad-32

To:
The General Manager Telecom,
HYDERABAD TELECOM DISTRICT,
Suryalok Complex, Gunfoundry,
ABIDS :: HYDERABAD 500 001.

Sir,

Sub: Payment of HRA/HRA arrears - occupying the Quarters belonging to BHEL a Govt. of India Undertaking-Reg.

Ref: The Honourable CAT, HD Judgement dt.5th July,1996 while disposing the OA No.67 of 1995.

I, N. NAGI REDDY RM/LM/T&M / _____ Staff No. 449 working at BHEL MIG Engg would like to represent the following few lines for your judicious consideration and favourable orders in the light of the Hon'ble CAT,HD Judgement Cited above under ref:

I have been working at BHEL MIG Engg and I got the allotment in _____ Quarters on 7.10.93. The DET(R) has stopped payment of HRA from 1-2-1995 and recovered the HRA already paid from _____ to _____ vide the DET(R) Lr.No. _____.

The Honourable CAT,HD while delivering its Judgement on OA No.67 of 1995 hold that "the law laid down in this connection is that the accomodation provided to the Govt. Servants directly by the autonomous corporation/undertaking by the direct efforts of the allottees cannot be construed as accomodation provided by the Government Department and also cannot be treated as accomodation procured through the active assistance and help of the concerned Government Department under the above circumstances, the Government servant are entitled for HAR _____". (para-8, Page No.5) and finally it has directed the Department that "The applicants are entitled for HRA even through they are occupying the Quarters belonging to BHEL, a Government of India undertaking, in BHEL Township. If any recovery had already been made for alleged excess payment of HRA. The same should be returned back to them alongwith the arrears of HRA payable to them from the date of stoppage of HRA till the resumption of the payment of HRA in persuance of this order".

In the light of the above cited paras of Judgement, I request your kindness to pay HRA to me alongwith arrears from _____ (the date of stoppage of HRA), till date and to return back the recovered HRA from _____ to _____ at an early date by applying the principle laid down in the Judgement, as I am placed under similar circumstances.

Thanking you sir,

Yours faithfully,

PLACE:
DATE : -07-97

(N. NAGI REDDY.)

(18)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH:
AT HYDERABAD

O.A. No. 1356/1997
Date of Decision:
17th October, 1997

BETWEEN:

N. Nagireddy .. Applicant

AND

1. Union of India rep. by the
Director-General,
Telecommunications,
New Delhi - 110 001.

2. The General Manager,
Telecom. District,
Hyderabad - 500 033.

3. The Senior Manager (Estates),
BHEL, Ramachandrapuram,
Hyderabad - 500 032. .. Respondents

Counsel for the Applicant: Mr. R. Yogendra Singh

Counsel for the Respondents: Mr. K. Bhaskar Rao

CORAM:

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

ORDER

(Per Hon'ble Sri H. Rajendra Prasad: Member (Admn.)

Heard Mr. J.V. Lakshman Rao and Mr. Yogendra Singh for the Applicant and Mr.K.Bhaskar Rao for the Respondents.

The basic issue in this OA is one relating to non-payment of HRA to occupamts of quarters in respect of Telecom Staff under the administrative control of Respondent-2, and posted in BHEL township. The quarters are stated to have been allotted by the BHEL authorities i.e., Sr.Manager(Estates), to the applicant in his individual capacity and not through the Telecom Department. The prayer of the applicant is for

..2

the issue of a direction to the Respondents to grant HRA which, according to him, is due and admissible.

The facts and issues involved in this case are similar to those in a number of cases previously dealt with and disposed of by this Tribunal e.g., in OA 67/95, disposed on 5th July, 1996 (Annexure-3 to OA). The following orders were passed in the said judgment:-

> " The applicamts 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. "

It is directed that the above order may be implemented in the case of the present applicant as well.

Thus the OA is disposed of.

(A copy of the OA be sent along with order to the Respondents for expeditious implementation.)

(H. RAJENDRA PRASAD)
MEMBER (ADMN.)

Date: 17th October, 1997

Deputy Registrar

KSM

O.A. 1355 to 1362/97.

To

1. The Director General, Telecommunications, Union of India, New Delhi-1.
2. The General Manager, Telecom District, Hyderabad-33.
3. The Senior Manager(Estates), BHEL, Ramachandrapuram, Hyderabad-32.

alongwith O.A. Copy

4. One copy to Mr.R.Yogendra Singh, Advocate, CAT.Hyd.
5. One copy to Mr. K.Bhaskar Rao - Addl.CGSC. CAT.Hyd.
6. One copy to HHRP.M.(A) CAT.Hyd.
7. One copy to D.R.(A) CAT.Hyd.
8. One spare copy.

31/10/97

I Court.

TYPED BY: CHECKED BY:

COMPARED BY: APPROVED BY:

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD

THE HON'BBE MR.JUSTICE.
VICE-CHAIRMAN

And

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

DATED:- 17/10/97

~~ORDER/~~JUDGMENT.

M.A.,/RA.,/C-A.No..

in

O.A.No. 1356/97

T.A.No. (W.P.)

Admitted and Interim directions issued.

Allowed

Disposed of with Directions.

Dismissed. 9/4 OA copy

~~Dismissed as~~ withdrawn

~~Dismissed~~ for default

Ordered/Rejedted

No.order as to costs.

केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal
प्रेषण/DESPATCH
28 OCT 1997
हैदराबाद न्यायपीठ
HYDERABAD BENCH