

CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH

RA No.05/2006 in OA No.96/2005.

Jaipur, this the 23rd day of May, 2006.

Subhash Chander Goel
S/o Late Shri U.S. goel,
Aged about 50 years,
R/o Plot No.F-42, Ghiya Marg,
Bani Park,
Jaipur.

... Applicant.

By Advocate : Shri C. B. Sharma.

Vs.

1. Union of India
Through its Secretary,
Ministry of Urban Development and Poverty
Alleviation, Government of India,
Directorate of Estate (Policy-III), Nirman Bhawan,
New Delhi.
2. The Estate Officer,
Central Public Works Department,
Office of the Executive Engineer,
Central Division-I, NCR Building,
Statue Circle, Jaipur.
3. Director Quality Assurance,
DGS&D IVth Floor, Jeevan Tara Bhawan,
Sansad Marg,
New Delhi.
4. The Deputy Director of Quality Assurance,
DGS&D, C-73, Shyam Marg, Shastri Nagar,
Jaipur 302 016.

... Respondents.

: O R D E R (BY CIRCULATION) :

The applicant has filed this Review Application for reviewing the order dated 17.04.2006 passed in OA No.96/2005. The applicant has filed the original OA before this Tribunal thereby praying that the direction may be given to the respondents to allow HRA from

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December 2003 by quashing letters dated 21.4.2004 (Ann.A/1), 14.5.2004 and 09.05.2004 (Annexure A/2 and A/14). The grievance of the applicant was that he was allotted Type-IV accommodation vide order dated 21.4.2004 without following the seniority rule while making allotment. Further case of the applicant was that he was asked to exercise option for ground floor pursuant to letter dated 26.4.2004 and accordingly he made request vide letter dated 19.05.2004 for allotment of ground floor. But without exceeding to the request of the applicant, impugned letter Annexure A/2 was passed whereby the applicant was made aware about the consequences of not accepting the government accommodation allotted to him vide letter dated 14.5.2004. This Tribunal after considering the submission made by the Learned Counsel for the parties, held that the respondents can stop the HRA of the applicant only for the period of one year from the date of allotment letter in terms of provisions contained in SR 317-B-10(1) read with Rule 4(b) (i) of HRA and CCA-General Rules and orders with further direction to the respondents to make payment of HRA to the applicant in future except for a period i.e. one year from allotment.

2. The present Review Application has been filed by the applicant thereby reagitating the same contention(s) which was raised by the applicant in the OA but the same was negated, namely that the allotment to the applicant was

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made without preparing the seniority list as per allotment rules and the request of the applicant for ground floor was not considered in right perspective. Additionally, the Review applicant has raised a point that the respondents have stopped the HRA of the applicant w.e.f. December 2003 on the ground of non availability of certificate by the parent department by order dated 3.6.2004 (Annexure A/14), whereas this Tribunal in similar matter in OA No.261/2004, Pokher Mal Tanwar vs. UOI & Ors., decided on 17.9.2004 has categorically held that the HRA cannot be stopped on the basis of furnishing of 'No Accommodation Certificate'. According to review applicant while disposing of this OA, the Tribunal has not given a positive direction to the respondents to pay arrear to the applicant w.e.f. December 2003 till the date of allotment letter issued in favour of the applicant, which in the instant case is 21.4.2004. Although this Tribunal has specifically directed the respondents to make payment of HRA to the applicant in future except for a period of one year i.e. from the date of allotment letter issued in his favour in terms of provisions contained in SR 317-B-10(1) read with Rule 4(b) (i) of HRA and CCA-General Rules and orders.

3. I have considered the submissions made by the Review applicant. Although this Tribunal vide judgment dated 17.4.2006 has clarified that the respondents can stop the

HRA of the applicant only for the period of one year from the date of allotment letter in terms of provisions contained in SR 317-B-10(1) read with Rule 4(b) (i) of HRA and CCA-General Rules and orders with further direction to the respondents to make payment of HRA to the applicant in future except for the aforesaid period. But at the same time, this Tribunal has not held that the applicant is not entitled to HRA w.e.f. December 2003 to till date of allotment letter issued in favour of the applicant, as the matter on this point has already attained finality in number of decisions including the decision relied upon by the review applicant in OA No.261/2004, which decision has attained finality. Thus, the respondents were duty bound to pay the arrear of HRA to the applicant w.e.f. December 2003 till the date of allotment letter issued in favour of the applicant in terms of provisions contained in SR 317-B-10(1) read with Rule 4(b) (i) of HRA and CCA-General Rules and orders and on the basis of the judgment rendered by this Tribunal. However, it is clarified that the review applicant shall be entitled for the arrear on account of HRA w.e.f. December 2003 till the date of issuance of allotment letter and the order of the respondents dated 3.06.2004 (Annexure A/14) shall stand quashed to that extent.

4. The Review Application is allowed to this extent and in the garb of review application, the applicant cannot be permitted to reagitate the matter again on merit which

stand finally decided by this Tribunal and the Review
Application is not appropriate remedy.


(M. L. CHACHAN)
JUDICIAL MEMBER

P.C./