

(5)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR

Date of order: 25.08.1998

OA No.387/96

J.S.Rajawat s/o Shri Bhanwar Singh aged about 43 years, resident of 97, Nalanda Vihar Colony, Maharani Farm, Durga Pura, Jaipur last employed on the post of Joint Assistant Director (Legal), RAF/CRPF, New Delhi.

.. Applicant

Versus

1. Union of India through Director General, CGO Complex, New Delhi.
2. Inspector General, Rapid Action Force (RAF), CRPF, East Block-2, R.K.Puram, New Delhi.
3. Office Superintendent, Office of the IGP, RAF CRPF, R.K.Puram, New Delhi.

.. Respondents

None present for the applicant

Mr. V.S.Gurjar, counsel for the respondents

CORAM:

Hon'ble Mr. Ratan Prakash, Judicial Member

ORDER

Per Hon'ble Mr. Ratan Prakash, Judicial Member

Applicant herein Shri J.S.Rajawat has approached this Tribunal under Section 19 of the Administrative Tribunals Act, 1985 to set-aside the impugned order issued by the respondent Department on 5.7.1995 (Ann.A1) rejecting his case for payment of HRA and with a further direction to pay him HRA w.e.f. 2.1.1995 to 15.3.1996 with interest.

2. The facts relevant for disposal of this application in brief are that the applicant was appointed on the post of Joint Assistant Director (Legal) in the Office of respondent No.2, the Inspector General, Rapid Action Force, CRPF, R.K.Puram, New


2

Delhi vide order dated January, 1995 (Ann.A2). He joined his service w.e.f. 2nd January, 1995.

3. It is the grievance of the applicant that since he was not provided any Government accommodation hence he was living in the Officer's Mess. Because of non-provision of the Government accommodation, he resigned from service from the respondent Department which was made effective from 15.3.1996. He made a representation to the respondent Department for payment of HRA for the period of his stay in the Officer's Mess but his request was rejected vide order of the respondent Department dated 5th July, 1997 (Ann.A1). Aggrieved, he has approached this Tribunal to claim the aforesaid relief.

4. The respondents have opposed this application by filing a written reply to which no rejoinder has been filed. It is the stand of the respondents that the applicant stayed in the Officer's Mess at Group Centre, C.R.P.F. Jharoda Kalan, New Delhi from the date of his joining till the date of his release on 19.3.1996 after acceptance of his resignation. According to the respondents, Officer's Mess at Jharoda Kalan is an inseparable part and parcel of Government accommodation and in view of Rule 4(b)(i) of HRA and CCA Rules, the applicant being not entitled to House Rent Allowance, his representation has been rightly rejected. It has, therefore, been urged that the OA deserves rejection.


5. I heard the learned counsel for the respondents who is present and have also gone through the pleadings and the documents relied by the respondent Department.



6. The only point for determination in this OA is whether the applicant is entitled to be paid HRA for the period between 2.1.1995 to 15.3.1996 during which he stayed in the Officer's Mess of the respondent Department.

7. The case of the applicant has been that Officer's Mess is not a Government accommodation as has been held in the decisions of Dr. S.K.Ghosh vs. Union of India, (1991) 16 ATC page 252 and O.P.Garg vs. Union of India & Ors., ATR 1992 (1) C.A.T. 656. It has, therefore, been claimed by the applicant that since in the Officer's Mess the applicant cannot be allowed to keep his family with him hence in the absence of allotment of Government accommodation, he has to be paid HRA for the said period.


8. As against this, the learned counsel for the respondents has drawn attention to a communication dated 15th June, 1995 from the Director General, Ministry of Home Affairs, New Delhi which has been referred to in the order dated 5th July, 1995 (Ann.A1) whereby his request for payment of House Rent Allowance has been disallowed. In the letter dated 15.6.1995, which has been produced during the arguments by the respondent Department, it has been indicated that the accommodation of Officer's Mess is a Government accommodation and no HRA is admissible in such cases as per Government of India decision No. (b). (i) below Rule 4 published in the Swamy's Compilation of FR & SR Part-V (HRA and CCA) corrected upto 1st August, 1991. The claim advanced by the applicant is that since Officer's Mess has to be shared with other officers and hence it cannot be equated with Government hostel or Government accommodation, more so when in such a situation an officer is not allowed to keep his family with him in the Officer's Mess.



9. It may be true that in the Officer's Mess an employee of the respondent Department may not be allowed to keep his family but that does not necessary mean that Officer's Mess does not constitute a Government accommodation. Decision No. (b) (i) below Rule 4 as produced in FR & SR Part-V (HRA and CCA) Rules reads as under:

"The allowance shall not be admissible to those who occupy accommodation provided by Government or those to whom accommodation has been offered by Government but who have refused it. In the latter case, the allowance will not be admissible for the period for which a Government servant is debarred from further allotment of Government accommodation under the allotment rules applicable to him."

From a perusal of this provision, it is made out that an accommodation of the type of Officer's Mess cannot be categorised as a Guest House and as it is run and maintained at the expense of the Government expenditure. It is an inseparable part and parcel of the Government accommodation. It is to be noted that as per the Government of India decision dated 20th October, 1987, it has been abundantly made clear that HRA shall not be admissible to those who occupy accommodation provided by the Government. The phraseography used by the Ministry of Finance (Department of Expenditure) Government of India is very significant as they have not used the words "Government accommodation" instead they have used the phraseography to the effect that "the allowance shall not be admissible to those who occupy accommodation provided by the Government". In the case of the applicant, the respondent Department has provided him accommodation in the Officer's Mess and that in all its perspectives it comes within the purview of "accommodation provided by the Government". Moreover, there is no ambiguity in the stand of the respondents that the accommodation in the



Officer's Mess is a Government accommodation.

10. The reliance placed by the applicant on the decisions of Dr. S.K.Ghosh and in the case of O.P.Garg is misplaced. In Dr. S.K.Ghosh's case, (1991) 16 ATC 252 the applicant therein was allowed to stay in the CRRI Guest House, which was meant primarily for the use of trainees. Such a Guest House cannot be equated to hostel or Government accommodation and hence it was observed in (1991) 16 ATC 252 (254) that "The guest-house means a boarding place while hostel <sup>is</sup> a place where a person normally resides in his own right and a hostel accommodation is allotted; while in a guest-house a person only stays for a short duration and can be asked to vacate the same after the limited period or prescribed period." The Tribunal, therefore, observed that if the respondents have allowed the applicant therein to stay for months then it is their fault and for that they can realise penal rent for over stay. <sup>By the rule to be observed. 2</sup> It has further been observed therein that the Guest House in question cannot be said to be a hostel so as to deprive the applicant of HRA. In the instant application there is no ambiguity that the Officer's Mess is not a Guest House but it is an accommodation of the Government and the applicant has been allowed to occupy it. In other words, the Officer's Mess in the instant case which has been so declared by the respondent Department as an accommodation of the Government; cannot be treated as merely a Guest House and hence the applicant cannot take advantage of the decision in Dr. S.K.Ghosh's case as the facts therein are distinguishable. In the case of O.P. Garg vs. Union of India (supra) relied upon by the applicant; "Basha accommodation" which was in occupation of the applicant was not on the charge of MES and hence that accommodation was not treated as Government accommodation. Consequently, the order of recovery of HRA



(13)

amounting to Rs. 17,470 from the applicant therein was quashed, as on facts it was found that "Tents and Basha" were not on the charge of MES; nor they were treated as accommodation for the purpose of formal allotment. In the instant case; as stated above; the Officer's Mess unquestionably is an accommodation provided by the respondent Department to be occupied by the applicant for the purpose of his stay in it. There is thus no ambiguity that the accommodation in the Officer's Mess; where the applicant stayed for the disputed period i.e. between 2nd January, 1995 to 15th March, 1996; is a Government accommodation and that no HRA is admissible to the applicant. Consequently the issue raised in this OA is answered in the negative.

11. For all the aforesaid reasons, there is thus no merit in this OA. The OA is dismissed with no order as to costs.



(Ratan Prakash)

Judicial Member