

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

O.A No.467/96

Date of order: 25/1/2007

Dr.U.B.Mathur, resident of A-25, Malviya Nagar, Jaipur,  
Posted as Director Pal Lab, GSI (W.R) Jaipur.

...Applicant.

Vs.

1. Union of India through Secretary, Mini. of Mines,  
Shastri Bhawan, New Delhi.
2. The Dy. Director General, Geological Survey of India,  
Western Region, Jhalana Industrial Area, Jaipur.

...Respondents.

Mr.Vinit Pareek, Proxy of Mr.Ajay Fastog - counsel for the  
applicant.

Mr.Hawa Singh, Proxy of Mr.V.S.Gurjar, counsel for respondents  
CORAM:

Hon'ble Mr.S.K.Agarwal, Judicial Member

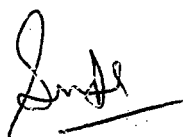
Hon'ble Mr.A.P.Nagrath, Administrative Member.

PER HON'BLE MR.S.F.AGARWAL, JUDICIAL MEMBER.

In this Original Application filed under Sec.19 of the  
Administrative Tribunals Act, 1985, the prayer of the  
applicant is:

- i) to quash and set aside the orders dated 10/13.5.96 and  
16.7.96 and to declare that the applicant is eligible for  
getting HRA.
- ii) to direct the respondents to refund the amount which  
have been recovered from the applicant alongwith interest.

2. In brief facts of the case as stated by the applicant  
are that the applicant is posted as Director Palaeontology  
Divn, GSI, Western Region, Jaipur and by virtue of his being a  
Central Govt employee, the applicant is entitled to HRA as per  
rules. It is stated that the applicant was paid HRA, total  
amount of Rs.55,000/- for the period from July 1987 to July  
1992 but vide letter dated 25.4.94 the applicant was informed



that the amount of Rs.55,000/- paid to him during the said period is recoverable therefore he was advised to refund the same. It is stated that as per the provisions contained in 5(c) (iii) FRSR (Part 5) is as follows:

"(c) A Govt servant shall not be entitled to house rent allowance if :

(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 in that accommodation or he/she resides separately in accommodation rented by him/her.

The applicant submitted a representation dated 3.5.94 but the respondents vide letter dated 11.5.94 intimated to the applicant to refund Rs.55,000/-. The applicant again submitted representation on 24.5.94 but with no result. The applicant further sent a letter on 26.5.94 to the Secretary, Deptt. of Finance, Govt of Rajasthan, for seeking clarification about the status of the University of Rajasthan. In reply to this letter, the Secretary, Finance Deptt. Govt of Rajasthan, informed that University of Rajasthan is an autonomous body and as per the University Act it is not controlled or managed by the State Govt. The applicant submitted a copy of the opinion issued by the Secretary of Finance Deptt to the respondents for consideration. But in spite of these, the respondents again issued letter dated 25.3.96 by which the applicant was advised to deposit the disputed amount and lastly vide letter dated 10.5.96 it was intimated that the recovery of the said amount will be made from the salary of of May 1996 onwards in 20 monthly instalments. It is stated that the impugned order was issued without assigning any reason and

without considering the contention raised by the applicant and without affording an opportunity to show cause. Therefore, the applicant filed the O.A for the relief as above.

3. Reply was filed. In the reply it is stated that the present O.A is hopelessly barred by limitation. It is also stated that the applicant intentionally withheld/suppressed the information about the fact of the allotment of a residential accommodation to his wife by the University of Rajasthan. In view of rule 5(c)(iii) FRSR (part 5), the applicant is not entitled to HRA for the period his wife was in possession of a residential accommodation allotted to her by the University of Rajasthan and the applicant was residing with his wife in the said accommodation. It is also stated that in view of the fact that the University of Rajasthan is an autonomous body, the claim of the applicant for HRA is not sustainable, therefore, this O.A deserves to be dismissed. It is further stated that the University of Rajasthan receives grant-in-aid from the University Grant Commission through Govt of Rajasthan, therefore, the applicant is not entitled to HRA for the period July 87 to July 92, for the period the applicant resided with his wife in the accommodation allotted by the University of Rajasthan. Since the applicant was not entitled to HRA as per rules, there was no need to give him an opportunity to show cause/hearing. Hence, the applicant has no case for interference by this Tribunal, therefore, the O.A devoid of any merit is liable to be dismissed.

4. Rejoinder and additional reply was also filed reiterating the facts as stated in the O.A and the reply.

5. Heard the learned counsel for the parties and also perused the whole record.

6. The learned counsel for the applicant vehemently urged that in the facts and circumstances of the instant case is

squarely covered by the decision given by the Bombay Bench of the Tribunal in O.A No.822 of 1991 decided on 26.10.94, S.G. Rajarshi Vs. UOI & Ors. and argued that this O.A may be decided in view of the decision given in the aforesaid O.A.

7. We have heard the learned counsel for the respondents.

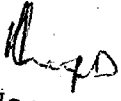
8. In the case decided by the Bombay Bench of the Tribunal decided on 26.10.94 in O.A No.822/91, S.G.Rajarshi Vs. UOI & Ors, the applicant was working as Sr.Clerk and her husband was working as Registrar in the Bombay University. The applicant was paid HRA and thereafter recovery was made on the ground that the applicant was not entitled to HRA in view of the provisions given in Clause 5 (c) of Part V of FRSR - HRA & CCA. The applicant challenged the recovery and it was held that though University may be a semi Govt in ordinary sense but it is not a semi-government organisation in the sense in which it is used in clause (iii).

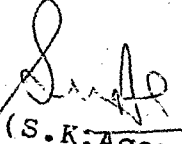
9. In the instant case, it is abundantly clear that the applicant was residing in the accommodation allotted to his wife by the University of Rajasthan and the applicant was paid HRA in view of the provisions contained in clause 5(c) of (Part V) FRSR - HRA & CCA. Thereafter, recovery proceedings were initiated. In our view, the instant case is squarely covered by the order passed in S.G.Rajarshi Vs. UOI & Ors, O.A No.822 of 1991, decided on 26.10.94 by Bombay Bench of the Tribunal. In view of the order passed in the aforesaid O.A by the Bombay Bench of the Tribunal, the applicant is entitled to HRA in the instant case and the impugned orders dated 10/13.5.96 and 16.7.96 are liable to be quashed and set aside.

10. We, therefore, allow the O.A and

i) quash and set aside the impugned orders dated 10/13.5.96 and 16.7.96 and declare that the applicant is entitled to HRA as admissible to Central Govt employees;

- ii) applicant is also entitled to refund of the amount HRA which was paid to him and subsequently recovered along with interest @ 12% per annum.
- 11) No order as to costs.

  
(A.P. Nagrath)  
Member (A).

  
(S.K. Agarwal)  
Member (J).