

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

O.A.NO. 193

of 1998

7-4-1999.

DATE OF DECISION.....

Sri Swami Nathan Venkataraman

(PETITIONER(S))

G.K.Bhattacharjee, Mr.G.N.Das, Mrs.B.Dutta Das

ADVOCATE FOR THE
PETITIONER(S)

-VERSUS-

Union of India & Ors.

RESPONDENT(S)

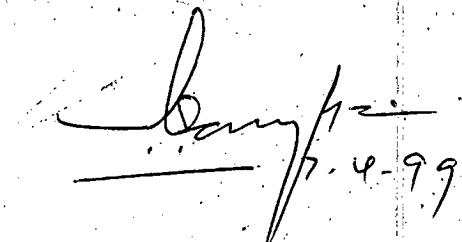
Mr.A.Deb Roy, Sr.C.G.S.C.

ADVOCATE FOR THE
RESPONDENTS.

THE HON'BLE Mr.G.L.Sanglyine, Administrative Member
THE HON'BLE

1. Whether Reporters of local papers may be allowed to see the Judgment ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the judgment ?
4. Whether the Judgment is to be circulated to the other Benches ?

Judgment delivered by Hon'ble Administrative Member


7.4.99

CENTRAL ADMINISTRATIVE TRIBUNAL
GUWAHATI BENCH

Original Application No. 193 of 1998

Date of Order: This the 7th day of April 1999.

HON'BLE MR.G.L.SANGLYINE,ADMINISTRATIVE MEMBER

Sri Swami Nathan Venkataraman

Son of Sri V. Swami Nathan Extra Assistant Director
(Hydromet) office of the Executive Engineer
Middle Brahmaputra Division,
Central Water Commission,
Rajgarh Road, Guwahati-7.

District: Kamrup, Assam. ... Applicant.

By Advocate Mr.G.K.Battacharjee, Mr.G.N.Das,
Mrs.B.Dutta Das, Mr.G.Gopala.

-Versus-

1. Union of India, represented by the Secretary, Ministry of Water Resources, New Delhi.
2. The Chairman, Central Water Commission, Sewa Bhawan, R.K.Puram, New Delhi-110066.
3. The Executive Engineer, Lower Godavari Division Central Water Commission, H.No.11-5-382 to 396, 2nd Floor, Red Hills, Hyderabad-500004.
4. The Director (Administration) Central Water Commission, Sewa Bhawan, R.K. Puram, New Delhi-110066.
5. The Superintending Engineer Hydrological Observation Circle, Central Water Commission, Nabin Nagar, Janapath Guwahati-781024.
6. The Executive Engineer, Middle Brahmaputra Division, Central Water Commission, Rajgarh Road, Guwahati-7. Respondents.

By Advocate Mr.A.Deb Roy, Sr.C.G.S.C.

O R D E R.

SANGLYINE MEMBER(A).

The applicant is presently working as

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Extra Assistant Director (Hydromet) in the office of t Executive Engineer Middle Brahmaputra Division, Central Water Commission, Rajgarh Road, Guwahati. Before his posting in Guwahati he was serving in Hyderabad where he was allotted a Type-4 quarter and he occupied the quarter till the time of his transfer to Guwahati. The applicant joined in his new posting in Guwahati on 14-3-95. The quarter was retained by him after the transfer for the bonafide use of his members of his family. But on completion of his own house in Hyderabad he shifted his family from the Government quarter to his own house in July 1995 vacating the Government quarter. After joining his post in Guwahati the applicant had taken up private rented accommodation and was drawing house rent allowance. But he claims that since he is posted in the Northeastern Region, he is entitled to double house rent allowance as his family is stay in his own house in Hyderabad. The respondents rejected the claim of the applicant in terms of para 2 of the office Memorandum dated 25-5-1986. Hence this Original Application.

2. The contention of the applicant in this O.A. is that he is entitled to get the house rent allowance for his last place of posting where he has kept the members of his family in his own residence in terms of the office memorandum dated 29-3-1984. The respondents have contested the application and submitted written statement. According to them double house rent allowance is only admissible to Central Government employees who, on being posted in the Northeastern Region, have kept their families in rented houses or in their own houses and were in receipt of house rent allowance in the last place of posting. Mr.G.K.Bhattacharjee learned counsel

for the applicant submitted that the applicant has been denied the double house rent allowance because of wrong interpretation of the Office Memorandum by the respondents. Mr. A. Deb Roy, learned Sr.C.G.S.C. however, supported the action of the respondents and submitted that in terms of the office Memorandum dated 29-3-94 and the clarification in the O.M. dated 25-5-86, double house rent allowance is not admissible to the applicant in view of the facts of this case. The applicant occupied the Government quarter at Hyderabad and was not in receipt of any house rent allowance in Hyderabad as at the time of his transfer to Guwahati. Therefore, according to him, the application is liable to be dismissed.

3. Counsel of both sides have been heard. According to O.M. No. 11016/1/E.II(B)/84, dated 29-3-1984 after consideration of the question of payment of House Rent Allowance to Central Government Civilian employees who are posted in the states of North Eastern Region and Union Territories of Arunachal Pradesh, Mizoram and Andaman and Nicobar Islands has been considered and the President is pleased to decide as follows:-

- (a) Central Government employees who were in occupation of hired private accommodation at the last station of posting before transfer to any of the States/Union Territories mentioned above may be allowed to draw House Rent Allowance Admissible to them at that station.
- (b) Such Central Government Civilian employees may also be allowed to draw, in addition to (a) above, House Rent Allowance at the rates admissible at the new place of posting in the aforesaid States/Union Territories in case they live in hired private accommodation.

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(c) The benefits mentioned in (a) and (b) above will also be admissible to Central Government employees who get transferred from one station of a State/Union Territory of the North-Eastern Region to another State/Union Territory of the North-Eastern Region mentioned above."

This O.M. was considered again and vide O.M. No. 11014/1/E.II(B)/84 dated 25-5-1986, the following clarifications relevant to the present case were issued :-

"2. Whether the benefit of H.R.A. would be available to the Central Government employees who are keeping their families in their own houses at the last place of posting. The concession will be available to those Central Government servants who are keeping their families in rented houses or in their own houses at the last place of posting and were in receipt of H.R.A. at that place, in addition to the benefits available at the new place of posting till the concerned Government servants remain posted in the above mentioned states/U.Ts."

The relevant facts in this O.A. are :-

- 1) The applicant was transferred from Hyderabad to Guwahati.
- 2) He occupied government quarter while serving in Hyderabad and did not receive any house rent allowance;
- 3) He received house rent allowance in Guwahati for his rented accommodation; and
- 4) He shifted his family to his own house in Hyderabad about 4 months after he joined his post in Guwahati.

The applicant did not keep his family in a rented house or in his own house at the last place of posting at the time of his transfer to his new place of posting and he was not in receipt of house rent allowance in the last place of his posting. He had kept his family in his own house at the last place of posting only after he joined in the new place of posting. Therefore, apparently the

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O.M. indicated above are not applicable to the facts of the applicant so as to entitle him to double house rent allowance. But the applicant had submitted a representation dated 5-12-1997, Annexure IV, praying for double house rent allowance specifically basing on the following contentions:-

"As per para (14) of the concessions available in employees serving in the Northeast, "who are keeping their families in rented houses or in their own houses at the last place of posting will be entitled to HRA admissible to them at old station, and also at the rates admissible at the new place of posting in case they live in hired private accommodation irrespective of whether they have claimed transfer T.A. for family or not subject to the condition that hired private accommodation or owned house at the last station of posting is put to bonafide use of the members of the family."

The respondents rejected the claim of the applicant by an order dated 4-3-98, Annexure VI on the ground that the applicant had not mentioned any new facts which may necessitate review of the decision of the Ministry in the matter as communicated vide letter dated 18-10-96. The reason shown by the respondents in the letter dated 18-10-96 is that according to the clarifications at para 2 of the O.M. dated 25-5-1986 the applicant is not entitled to double House Rent Allowance. However, on the face of the order dated 4-3-1998 I am of the view that the respondents had without considering the contentions of the applicant as quoted above arbitrarily rejected his representation without any speaking order. In the above quoted contentions of the applicant it is clear that there is no condition that an employee in order to receive the benefit of double house rent/in allowance

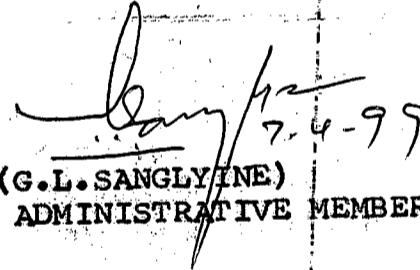
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in the new Station must have received House Rent Allowance in the old station. There is also no condition that double house rent allowance would not be admissible to an employee who did not receive House rent Allowance in the old place of posting if such an employee, subsequent to his joining duties in his new place of posting, keeps his family in his own house at the old place of posting. In view of the above I set aside the order dated 4-3-98, Annexure VI, and I direct the respondents to reconsider the representation of the applicant at Annexure 4. The respondents shall communicate a speaking order to the applicant within 60 days from the date of receipt of this order.

The application is disposed of as above.

No costs.

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7.4.99
(G.L. SANGLYINE)
ADMINISTRATIVE MEMBER