

P

**Central Administrative Tribunal
Jabalpur Bench**

OA No.1113/05

Jabalpur, this the 24th day of August 2006.

CORAM

Hon'ble Mr.A.K.Gaur, Judicial Member

**Nayab Hussain
S/o Shri Ishtiaq Hussain
S.K.F-3 Section, Ordnance Factory
Jabalpur.**

And

91 others.

Applicants

(By advocate Shri S.K.Nagpal)

Versus

- 1. Union of India through
Its Secretary
Ministry of Defence
Department of Defence Production
New Delhi.**
- 2. Chairman-cum-Director General
Ordnance Factory Board
10-A, S.K.Bose Road.
Kolkata**
- 3. General Manager
Ordnance Factory
Khamaria
Jabalpur.**

Respondents.

(By advocate Shri A.P.Khare)

ORDER (oral)

By A.K.Gaur, Judicial Member

This original application is directed against denial of House Rent Allowance to the applicants by the respondent - Ordnance Factory, Khamaria. The applicants, 92 in number, joined the Ordnance Factory, Khamaria on different dates as mentioned in A-1, after being transferred from Grey Iron Foundry, & Vehicle Factory, Jabalpur. It is averred in the OA that they were getting HRA in their

R

earlier organization. It is also averred that the applicants were paid HRA by respondent No. 3 from 1.5.2001, 1.9.2002 and not from the date they joined the Ordnance Factory, Khamaria. It has been specifically stated that House Rent Allowance has not been paid to one set of applicants who joined OFK on 21.11.2001 for 9 months and 10 days (from 21.11.2001 to 31.8.2002) and another set of applicants who joined OFK on 1.2.2002 for seven months (from 1.2.2002 to 31.8.2002). Similarly the applicants at Sl.No.91 and 92 have not been paid HRA for the period from 11.10.2000 to 30.4.2001 and 5.4.2001 to 31.8.2002 respectively. The applicants submitted representations to respondent No.3 in this regard, followed by submission of required information, but no action was taken by respondent No.3 for release HRA to the applicants for the period under question, nor any reply given as to why HRA was being denied to the applicants. Aggrieved by the denial of HRA, the applicant have filed this OA seeking a direction to the respondents to pay HRA due to them from the dates they joined the OFK i.e. 11.10.2001/5.4.2001/21.11.2001/1.2.2002 to 30.4.2001/31.8.2002, the period intervening the date of joining the OFK to the dates HRA was actually paid, along with interest at 12%.

2. Learned counsel for the applicants has argued that the applicants are living in their own houses/paternal house and some of them are residing in rented houses. He further submitted that the applicants are not in occupation of any government quarters and they have not been allotted any such accommodation and hence they are entitled to HRA. The learned counsel for the applicant further argued that the applicants are similarly placed as that of litigant in OA No.802/02 which was allowed by this Tribunal on 26th August 2004. Denial of HRA when government quarters were not allotted to the applicants is wholly unjustified.

3. Respondents in their reply statement have contended that as per existing rules, employees shall be entitled for HRA on production of "No Accommodation Certificate" from competent authority. Since a good number of quarters of various types were lying vacant in Ordnance Factory, Khamaria Estate, respondent No.3 was not in a

position to issue "No Accommodation Certificate" in favour of the applicants, which is a pre-condition for claiming HRA. The cases for granting HRA in respect of the employees as per their seniority/entitlement are being reviewed periodically keeping in view the number of quarters lying vacant. As such, the claim of the applicants deserves to be rejected, contended the respondents,

4. I have heard the learned counsel for the parties and perused the records.

5. It is an admitted fact that the applicants were not allotted any Government quarters by the respondents. The only ground taken by the respondents for denial of HRA to the applicants is that there were a good number of government quarters lying vacant with them and that the applicants were required to produce "No Accommodation Certificate", which is a pre-condition for claiming HRA. The applicants have stated in the rejoinder that the quarters which were lying vacant were in dilapidated condition, unfit for living and hence they were not allotted the quarters. The contention of the respondents that a "No Accommodation Certificate is a pre-condition for claiming HRA when they themselves have stated in the reply that the OFK Management was not in position to issue such a certificate to the applicants, seems to be a contradictory statement per se. The statement that the grant of HRA can be considered as per seniority/entitlement of the employees keeping in view the number of quarters lying vacant cuts no ice as it has no legal validity. The fact, however, remains that Government quarters were not allotted to the applicants during the period under question and they were not in occupation of such government quarters. So long as Government quarters are not allotted to the applicants and so long as they are not in occupation under such allotment, they are entitled to HRA as per rules.

6. In the facts and circumstances of the case, the OA is allowed, with the direction to the respondents to reconsider the claim of the applicant regarding their entitlement of payment of arrears of HRA for the period of their joining Ordnance Factory, Khamaria from 21.11.01

M

7. The Registry is directed to supply the copy of Memo of Parties while issuing the certified copy of this order.

Jin Gaur
(A.K. Gaur)
Judicial Member

32.

पूजाकेन सं ओ/न्या..... जलपुर, दि.....

पतिलिपि आवे बिदा:-

(1) सचिव, उच्च न्यायालय, जलपुर के कार्यालय

(2) आवेद्यक श्री/श्रीमती/श्री..... के कार्यालय

(3) प्रवर्धनी श्री/श्रीमती/श्री..... के कार्यालय

(4) बंधुपाल, कोप्रडा, जलपुर न्यायालय

रावता एवं आवेद्यक कार्यवाही हेतु

उप मुख्य

1-10 hoopstuck } DN
2-10 chock } 200

29-8-06

Issued
on 30/8/06
AB