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CENTRAL ADMINISTRATIVE TRIBUNAL
JABALPUR BENCH

OA No.360/04

Jabalpur, this the 23rd day of September, 2004.

CORAM: Hon'ble Mr.Madan Mohan, Judicial Member

1. T.F.R.I. Staff Association through its Secretary
Shri Raghavendra Singh
Technical Assistant
R/o Patel Nagar, Suhagi
Adhartal, Jabalpur.
2. Research Staff Association through its President
Ku.Sushama Maravi
Research Assistant Grade.II
R/o 4th Mile, Tilahari
Jabalpur.
3. Dr.S.K.Banerjee
S/o Late Shri Sudin Kumar Banerjee
R/o Bilhari Mandla Road, Jabalpur.
4. Shri S.D.Nair
S/o S.K.Nair
Gouriyaghata, Mandla Road
Jabalpur.

Applicants.

(By advocate Shri Rohit Arya)

Versus

1. Tropical Forest Research Institute through its Director, TFRI
Mandla Road, Jabalpur.
2. The Director
Tropical Forest Research Institute
Mandla Road, Jabalpur.
3. Union of India through Secretary
Ministry of Environment & Forest
CGO Complex, Paryavaran Bhawan
Lodhi Road, New Delhi.
4. Director General
Indian Council of Forestry Research
Education, P.O.New Forest Dehradun. Respondents.

(By advocate Shri Gopi Chaurasia on behalf of
Shri S.A.Dharmadhikari)

O R D E R

By Madan Mohan, Judicial Member

By filing this OA, the applicants have claimed the following reliefs:

(Signature)

(i) Quash the impugned circular (Annexure A4) dated 12.4.04 and consequential action in the matter of denial of house rent allowance to the applicants.

(ii) Direct the respondents to pay the applicants house rent allowance and other admissible allowance.

2. The brief facts of the OA are that applicants 1 & 2 are registered societies. As on June 1996, sanctioned strength of staff was 248 but only 209 posts were filled. In the year 2002-03, 30 posts were abolished. As on March 2004, total sanctioned strength was 218 whereas only 198 posts were filled up. Out of 198 employees, 116 employees are already living in government quarters in TFRI. The Officers/employees of TFRI were encouraged to avail house building advance for the purpose of construction of residential houses. A number of officers/employees availed of the benefit of house building advance provided by TFRI and also by financial institutions like LIC, ICICI and nationalised banks, and the employees/officers constructed their own houses by their hard earned money/loan from the respondents and other financial institutions and they are residing in their own houses for the last 10 to 20 years and they are getting HRA also. Due to introduction of Forestry Research Education and Extension Project, a world Bank Project, huge amount under building fund was received by TFRI. Besides, TFRI was likely to get the status of deemed university during the period 1994-95. Massive construction activities were carried out in TFRI with the availability of fund from both the sources. As many as 118 quarters were constructed in 2001-02. Besides, two transit hostels, one scientist hostel, few rest houses having 20 suites were constructed for residential purposes. Unfortunately, TFRI could not get the status of deemed university. Therefore, all such construction being carried out in anticipation of status of deemed university was rendered surplus. Likewise, residential quarters also

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became surplus. Respondent No.4 having realised the availability of surplus residential accommodation at TFRI accorded his approval for allotment of residential quarters to employees of other government/semi government agencies and as such as many as 68 quarters were allotted to employees of outside agencies in 2003-04. As on March 2004, the total sanctioned strength of TFRI was 218, out of which 198 posts are in position, and 116 officers/employees are residing in government quarters. Only 82 officers/employees are residing in their own houses in the city area. By impugned order, 82 officers/employees are being adversely affected, details of which are given in the form of a chart marked as Annexure A3. By impugned circular dated 12.4.04 (Annexure A4), the applicants have been given to understand that such officers/employees who are living outside the campus or premises of TFRI should submit their application form to the Estate Officer for allotment of quarters, failing which on and from 22.4.2004, available quarters shall be allotted to officers/employees and from the date of taking over possession of the quarter or after the date of allotment of quarter whichever is earlier, the officers/employees shall not be paid HRA.. Officers/employees residing outside the TFRI premises/campus in their own houses for the last 10 to 20 years cannot be denied HRA and consequential conveyance allowance as intimated in the impugned circular. Hence this OA is filed.

3. Heard learned counsel for both parties. It is argued on behalf of the applicant that 82 officers/employees have constructed their own houses by taking house loans from the respondents and from other financial institutions like nationalised

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banks, LIC etc and they are residing in their houses for the last 10 to 10 years and it is within the knowledge of the respondents and they are also getting HRA regularly from the respondents. 26 employees are allotted houses vide order dated 28.7.04 (Annexure A7). 82 officers/employees are being compelled to occupy the quarters constructed by the respondents which are constructed in surplus with the exception that TFRI was likely to get the status of deemed university and due to availability of funds from other institutions while TFRI could not get the status of deemed university. Therefore, all such constructions being carried out in anticipation of such status were rendered surplus. The learned counsel of the applicants has drawn my attention towards Annexure A2 which is about utilization of vacant residential quarters of TFRI. Along with this A-2, a chart containing the names of 82 officers/employees is also annexed. The counsel further argued that Rule 4 of FRSR Part V HRA & CCA does not apply in this case while Rule 7 is applicable in the case of the applicants and the order in OA 77/02 Mahipal Vishnoi & others Vs. UOI & ors. decided on 31.5.02 CAT, Jodhpur Bench is not applicable in this case because in that judgement the houses were constructed by the employees beyond the municipal limit of Jodhpur while in the present case the houses are constructed within the municipal limit of Jabalpur. For the mistake and fault of the respondents for the construction of excess houses, the applicants cannot be compelled to take possession thereof and they cannot be denied the HRA which they are getting for the last 10-20 years continuously.

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4. In reply, the learned counsel for the respondents argued that there is no rule governing construction of residential quarters against sanctioned strength of staff in TFRI, nor is there any ratio fixed by the Govt./ICFRE for construction of staff quarters in any specific proportion of the staff strength. The abolishment of 30% of posts of staff in the year 2002 is a consequence of subsequent govt. policy to reduce staff strength of all organizations and it came at a much later date when construction of residential quarters had completed. Ratio, if any, of quarters to sanctioned strength staff, therefore, has nothing to do with the present strength of staff working at TFRI, which is the result of abolishment of 30% posts in the year 2002. The respondents never encouraged its staff to avail HBA for construction of their own residential houses. It is their entirely personal matter. 15 employees of the Institute have availed of the HBA facility so far. He also referred the order passed in OA 77/02 Mahipal Vishnoi & ors. Vs. UOI & Ors. decided on 31.5.02 in which similar matter was considered by the Tribunal and all the OAs were dismissed considering all the facts and circumstances and it is mentioned in that order that HRA is a compensatory allowance and not a part of the wages. It is also held that the discontinuance of the HRA on providing the amenity (quarters) is justified and further argued that Rule 4 of FRSR Part V HRA & CCA is applicable in the present case. As the respondents are offering government residences to the applicant, they cannot refuse to occupy it and in case they do so, they will not be entitled to HRA and Rule 7 is not applicable and further argued that the respondents have spent crores of rupees in constructing the alleged houses and it is not correct to say that these houses were constructed with the anticipation of it being declared a deemed university. Hence the action taken by the respondents is perfectly legal and justified.

5. After hearing the learned counsel for the parties and careful perusal of the records, I find that 15 employees were given HRA by the respondents and others took loan from banks, LIC etc. and they had constructed their own houses and were residing therein for the last 10 to 20 years. This argument on behalf of the applicants is admitted by the respondents but there is no rule governing construction of residential quarters against sanctioned strength of staff in TFRI nor is there any ratio fixed by the Government or ICFRE for construction of staff quarters in any specific proportion of the staff strength and the government have spent crores of rupees in the construction of such houses. The applicants have constructed their own houses by taking loans from respondents and from certain other financial institutions. Rule 4 of FRSR (HRA & CCA) makes it mandatory on an employee to take the government accommodation which is allotted to him. Provisions of Rule 7 are not applicable in the present case. I have also perused the judgement in OA 77/02 etc. as mentioned above in which it is clearly mentioned that the HRA is a compensatory allowance and not a part of the wages. It is also held that the discontinuance of the HRA on providing the amenities (quarters) is justified.

6. After considering all the facts and circumstances, I am of the opinion that the OA has no merit. Hence the OA is dismissed.


(Madan Mohan)
Judicial Member

पृष्ठांकन सं. ओ/व्या/..... जबलपुर, दि.....
प्रतिलिपि वा और दिलातः—

(1) सचिव, उच्च न्यायालय वार एसोसिएशन, जबलपुर
(2) आवेदक श्री/श्रीमती/कु..... के काउंसल *Rohit Arya*
(3) पत्तरी श्री/श्रीमती/कु..... के काउंसल *S. A. Dhamankar*
(4) अध्यपाल, क्ले.प.अ., जबलपुर न्यायपीठ
सूचना एवं आवश्यक कार्यवाही हेतु

मुख्य अधिकारी
मुख्य अधिकारी

*Issued
On 24-9-04
On 24-9-04*