

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR
...

Original Application No. 01/2001

Jabalpur, this the 23rd day of January, 2004

Hon'ble Shri M.P. Singh, Vice Chairman
Hon'ble Shri G. Shanthappa, Judicial Member

Mrs. Pritam Pabra,
w/o Sh. Suresh Pabra Akash,
UDC 3-E.M.E. Centre, Bairagarh,
Bhopal
R/o Junior HIG 61, J-Sector,
Ayodhya Nagar, Bhopal 462041(MP) ...Applicant

(By Advocate: Shri Rajneesh Gupta for Sh. R.K. Gupta)

-versus-

Union of India through

1. Secretary,
Ministry of Defence,
New Delhi.
2. The Commandant,
3, E.M.E. Centre,
Bhopal (MP).
3. Civil Establishment Officer,
3, E.M.E. Centre,
Bairagarh,
Bhopal (MP). ...Respondents

(By Advocate: Shri Harshit Patel for Shri S.C. Sharma)

O R D E R

By G. Shanthappa, Judicial Member -

The above O.A. is filed seeking the relief to quash the impugned order dated 14.7.1999 (Annexure A/4) directing the respondents to refund the amount which has been deducted from her salary and further to hold that the applicant was rightly paid the HRA and she is entitled to receive the HRA and she be paid the HRA from 1998 November till 1999 December with arrears.

2. The brief facts of the case are that the applicant is working as UDC under second respondent. The applicant is entitled for H.R.A. since 1992 on different rates as revised from time to time by virtue of the recommendations of different pay commissions. Her husband is employed as a Lecturer in Heavy Electrical Education Society, Berkheda, Bhopal (hereinafter referred to as 'Society'). The said Society is registered Society. It is neither the establishment of the Central Govt. nor of the State Government nor of any other undertaking or public sector. The said Society is also not owned and carried out by any local self Govt. It is absolutely an autonomous society which is being run by the office bearers duly nominated/elected in terms of the bye-laws of the Society.

3. The husband of the applicant is allotted an accommodation by the said Society in which both the applicant and her husband have been residing. The respondents came to know on the complaint made by unknown person in relation to the payment of H.R.A. to the applicant. Respondents have issued the notice to the applicant against which the applicant has submitted her objections taking the contention that the accommodation was allotted to her husband by the Society which is not a local self government and is an autonomous body hence Rule 6(1) of HRA/CCA Rules Part-V is not applicable to the case of the applicant. Accordingly, H.R.A. drawn by the applicant is proper.



4. On the basis of the submissions of the applicant, the respondents have issued an order dated 14.07.1999(A/4) directing the applicant to repay the amount. Recovery proceedings were initiated to recover the amount @ Rs.1500/- per month through regular pay bill till liquidation of Rs. 24,935/-. Aggrieved by the said act of the respondents, the applicant has filed the present O.A. challenging the impugned order for quashment.
5. If the Government accommodation is allotted to the husband/wife at the same station by the Central Govt./ State Govt./Public Undertaking/Semi Government Organisation such as Municipality, Port Trust etc. where he/she resides in that accommodation or he/she resides separately in accommodation rented by him/her would not be entitled for the H.R.A. The case of the applicant is that the accommodation allotted by the Society to her husband does not come within the purview of definition of Government accommodation. Hence the proceedings initiated by the respondents are illegal and the applicant is entitled for the reliefs as prayed for in the O.A.
6. The respondents have filed their reply contending that the accommodation given by the Society, to the husband of the applicant, which is an autonomous public undertaking hence the applicant is not entitled for the drawl of H.R.A. The proceedings initiated against the applicant is in order. The respondents have also obtained the certificate from the Heavy Electrical Education Society stating that the


said Society is registered society under the patronage of BHEL (A Government of India undertaking). They have also obtained another letter issued by the said BHEL in which they have informed the respondents as under:

- "i) The licence fee of D2 type quarter is Rs. 89/- + (Electrical water and conservancy) against FR-45-A is being charged from Shri S.P.Akash monthly.
- ii) Rs. 89/- as rent + actual (electricity water and conservancy) is being charged monthly from BHEL employee also and the same are applicable to H.E. Education Society employees.
- iii) Q.No.725/D2/D/Piplani has been licenced to H.E. Education Society for the residential purpose of Shri S.P.Akash. The above said quarter belongs to Bharat Heave Electricals Limited which is an autonomous public Undertaking Govt. of India."

Accordingly recovery proceedings initiated by the respondents against the applicant is in order and there is no illegality or irregularity committed by the respondents as the recovery proceedings can be initiated by invoking FR45-A in respect of H.R.A. amount.

7. We have heard the learned counsel for the parties and have carefully perused the pleadings and other material available on record,


8. The admitted facts are that the accommodation given by the aforesaid Society to the husband of the applicant in which the applicant is also residing with her husband. According to the correspondence of the said Society, in ^{which} ~~the~~ very much clear from the certificate issued by the Society that the society is a recognised one under the Patronage of BHEL (A Govt. of India Undertaking). In their letter dated 28.1.1999, the licence fee of D2 type quarter is Rs. 89/- + actual (electricity water and conservancy) against FR 45-A-A is

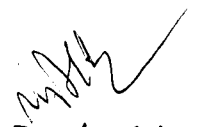


being charged from Sri S.P. Akash on monthly basis. Accordingly, the accommodation allotted to the husband of the applicant by BHEL, Bhopal is treated as a government accommodation and FR 45-A is applicable to the case of the applicant.

9. In view of the observations made ^{above} the applicant is not entitled for the drawal of H.R.A. in view of the fact that she has been residing with her husband in an accommodation allotted by the Society and hence, the recovery proceedings initiated by the respondents vide order dated 14.7.1999 (A/4) is in order.

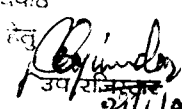
10. In the facts and circumstances of the case it is established that the applicant has failed to prove her case for drawal of H.R.A. amount. Accordingly, the O.A. is devoid of merit and deserves to be dismissed. Therefore, we dismiss the O.A. with no order as to the costs.


(G. Shanthappa)
Judicial Member


(M.P. Singh)
Vice-Chairman

/na/

ILK
on
29.1.04

पृष्ठांकन सं ओ/न्या.....जबलपुर, दि.....
प्रतिनिधि उपस्थित:-
(1) सचिव, उच्च न्यायालय एवं प्रबोधिनाशन, जबलपुर
(2) अर्जित जी/जी/जी/जी/जी.....के काउंसल R. Gupta, Heli
(3) प्रबोधिनी जी/जी/जी/जी/जी.....के काउंसल SC Sharma, Heli
(4) न्यायाधीश, उच्च न्यायालय, जबलपुर न्यायाधीश
सूचना एवं आवश्यक कार्यवाही हेतु

27/1/04