

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR
BENCH, JAIPUR

This, the 17th day of April, 2006

ORIGINAL APPLICATION No.96/2005

CORAM:

HON'BLE MR. M.L.CHAUHAN, MEMBER (JUDICIAL)

Subhash Chander Goyal
s/o late Shri U.S.Goel,
aged about 50 years,
r/o Plot No.F-42,
Ghiya Marg,Bank Park,
Jaipur and
presently working as
Assistant Director (Q.A.) Gr.II,
DGS&D,O/o the Deputy Director of
Quality Assurance,
DGS&D, C-73, Shyam Marg, Shastri Nagar,
Jaipur.

.. Applicant

(By Advocate: Mr. C.B.Sharma)

Versus

1. Union of India
through Secretary,
Ministry of Urban Development and
Poverty Alleviation,
Government of India,
Directorate of Estates (Policy III),
Nirman Bhawan,
New Delhi.
2. The Estate Officer,
Central Public Works Department,
Office of the Executive Engineer,
Central Division-I,
N.C.R.Building,
Statute Circle,
Jaipur.

3. The Director, Quality Assurance,
DGS&D, IVth floor, Jevan Tara Bhawan,
Sansad Marg, New Delhi.
4. The Deputy Director of Quality Assurance,
DGS&D, C-73, Shyam Marg,
Shastri Nagar, Jaipur.

.. Respondents

(By Advocate: Shri Tej Prakash Sharma for resp. No. 1 and 2 and Shri Bhanwar Bagri, for resp. No. 3 and 4)

ORDER

Per Hon'ble Mr. M.L. Chauhan

The applicant who is Central Govt. employee and presently working as Assistant Director in the Office of Deputy Director of Quality Assurance, DGS&D, Jaipur has filed this OA thereby praying for the following reliefs:-

“(i) That the entire record relating to the case be called for and after perusing the same the respondents be directed to allow House Rent Allowance from December, 2003 by quashing letters dated 21.4.2004 (Ann.A1) and 14/5/2004, 9/5/2004 (Annexure A/2 and Annexure A/14) with all consequential benefits.

(ii) That the respondents may be further directed not to allot Government Accommodation without willingness to the applicant and not to obtain no accommodation certificate for the benefits of House Rent Allowance by quashing letter dated 8.12.2004 (Annexure A/13) with all consequential benefits.

(iv) Any other order, direction or relief may be passed in favour of the applicant which may be deemed fit, just and proper under the facts and circumstances of the case.

iv) That the costs of this application may be allowed.”

2. Briefly stated, facts of the case are that the applicant submitted an application for allotment of Government quarter through proper channel under last

priority for first/ground floor on medical ground on 22.3.2004. This was followed by another application dated 12.4.2004 whereby the applicant has stated that he has no objection if the available accommodation is considered and given by you to needy and even junior/less priority employees since the family of the applicant is living in his own accommodation at Delhi and he has made arrangements with relative as paying guest accommodation at Jaipur. ~~Thereafter~~ the applicant was allotted Govt. accommodation as Q.No.34, Sector-2, Vidyadhar Nagar vide letter dated 21.4.2004 (Ann.A1). It is the case of the applicant that respondent No.2 called for willingness for ground floor quarter vide letter dated 14.5.2004 (Ann.A2) whereby it was stated that Type-IV quarter on ground floor has fallen vacant recently and as such the applicant should submit his willingness for the said quarter within three days failing which the said quarter shall be allotted to some other person and the applicant shall be debarred for further allotment for one year in terms of SR-317-B-10(1) and also during the debarred period, he shall not be liable for payment of HRA under Rule 4(b)(i) of HRA and CCA-General Rules and Orders. It is further case of the applicant that he made request for 'No Accommodation Certificate' and also for ground floor quarter vide letter dated 19.5.2004 (Ann.A8). However, the applicant vide letter dated 30.6.04 (Ann.A9) was informed that his request for 'No Accommodation

Certificate' cannot be considered as Type-IV quarters are still lying vacant. He was also informed that his request for allotment of quarter has not been received through proper channel. It is on the basis of these facts, the applicant has filed this OA. The grievance of the applicant is that the respondents failed to maintain seniority list by grouping the employees of the Central Government for allotment of Government accommodation and allotment has been made against willingness and under pressure.

3. Notice of this application was given to the respondents. The respondents have stated that Quarter No.34, Sector-2, Vidyadhar Nagar was rightly allotted to the applicant. However, the request of the applicant was also properly considered by the respondent department vide order dated 14.5.2004 whereby the applicant was specifically asked to give his consent for ground floor within three days failing which HRA will be stopped, but the applicant himself did not accept the proposal instead the applicant was insisting for issuing of 'No Accommodation Certificate'. As such, the action of the respondents is valid and in conformity with the provisions of rules.

4. The applicant has not filed rejoinder.

5. I have heard the learned counsel for the applicant and gone through the material placed on record.

6. The issue whether a Govt. servant is entitled to HRA in case he refused to accept the accommodation was subject matter in OA No.74/05 decided on 17.4.2006. This Tribunal after noticing provisions contained in SR-317-B-10(1) and Rule 4(b)(i) of HRA and CCA - General Rules and Orders held that in case the Govt. employee has not accepted the Govt. quarter which has been allotted to him, HRA will not be admissible for a period for which the Govt. servant is debarred, which according to SR-317-B-10(1), is one year from the date of allotment letter. At this stage, it will be useful to quote SR-317-B-10(1) and Rule 4(b)(i) of HRA and CCA - General Rules and Orders, which thus reads as under:-

"S.R.317-B-10(1) If any officer fails to accept the allotment of a residence within five days or fails to take possession of that residence after acceptance within eight days from the date of receipt of the letter of allotment he shall not be eligible for another allotment for a period of one year from the date of the allotment letter."

"4(b)(i) The allowance shall not be admissible to those who occupy accommodation provided by Government or those to whom accommodation has been offered by Government, but who have refused it. In the latter case, the allowance will not be admissible for the period for which a Government servant is debarred from further allotment of government accommodation under the allotment rules applicable to him."

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6. The reasoning given by this Tribunal in OA No. 74/2005 is squarely applicable in the facts and circumstances of this case. According to me, the applicant was given maximum latitude before proceeding to forfeit the HRA in terms of SR-317-B-10(1) read with Rule 4(b)(i) of HRA and CCA- General Rules and Orders. Admittedly, the applicant applied for allotment of Govt. accommodation and pursuant to his application, he was allotted type-IV accommodation vide letter dated 21.4.2004. The grievance of the applicant that the respondents have not followed seniority rules while making allotment cannot be accepted, inasmuch as, the applicant has applied for Govt. accommodation and now he is again taking U-turn that such allotment should not be made to him and respondents should make allotment according to rules, more particularly, when there were surplus accommodation available with the respondents which could not be allotted to Govt. employees. Similarly, the grievance of the applicant that he has made request for ground floor pursuant to letter dated 26.4.2004 and request made by him vide letter dated 19.5.2004 have not been properly considered cannot be accepted. At this stage, it will be useful to quote letter dated 19.5.2004 in extenso which thus reads:-

WZ
"With reference to your letter under reference (2) above, I wish to state as under:

- (i) I have made... paying guest arrangement with some relative in Jaipur since my family is living in own house in Delhi and working in Delhi. In view of this practically, I am not in need of the quarter.
- (ii) I will be thankful if the accommodation can be utilized by some other needy employee may be junior to me without any effect on my HRA.
- (iii) I am thankful to you for considering one of my difficulties and offering me the quarter on the Ground Floor vide your letter under reference (2) above. But if the above is also not feasible for you to consider on humanitarian grounds, I hereby give my **ACCEPTANCE UNDER PRESSURE** for the quarter offered by you on the ground floor, under its normal conditions.
The policy of constructing the houses/Quarters without essential needs/requirements of employees/Govt. Deptt. and hence offering **FORCEBLY TO THE EMPLOYEES NEEDS FURTHER MODIFICATIONS BY APPROPRIATE AUTHORITY.**


You may like to do the further needful in the above matter please."

From perusal of this letter it is clear that the applicant was not interested in occupying the allotment made in his favour. Further perusal of the aforesaid letter also make it clear that the applicant has not shown his unqualified willingness for allotment of quarter in ground floor pursuant to offer extended by the respondents vide letter dated 14.5.2004. Rather the applicant was insisting for obtaining 'No Accommodation Certificate'. Thus, I see no infirmity in case the subsequent request made vide letter dated 19.5.2005 was rejected. In this case the applicant was made aware about consequences of not accepting Govt. accommodation allotted to him vide letter dated 14.5.2005 (Ann.A2). Thus, according to me, the respondents were within their legal right to forfeit the HRA in terms of provisions contain in SR-317-B-10(1) read with Rule 4(b)(i) of HRA and CCA-General Rules and Orders which provide consequences

for failure to accept the Govt. accommodation allotted to a Govt. employee. According to me, there was no necessity to pass specific order for forfeiting the HRA in view of the consequences provided in the rule itself.

7. Accordingly, the OA is bereft of merit. It is further clarified that the respondents can stop the HRA of the applicant only for the period of one year from the date of allotment letter in terms of provisions contained in SR 317-B-10(1) read with Rule 4(b)(i) of HRA and CCA- General Rules and Orders as reproduced above and the respondents are directed to make payment of HRA to the applicant in future except for the aforesaid period and arrears, if any, shall be paid within a period of six weeks from the date of receipt of a copy of this order.

8. With these observations, the OA is disposed of with no order as to costs.


(M.L. CHAUHAN)
Member (Judicial)

R/