

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR
BENCH, JAIPUR

This, the 17th day of April, 2006

CORAM:

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

ORIGINAL APPLICATION No. 431/2005

Sua Lal
S/o Shri Gulla Ram,
aged about 55 years,
r/o B-13, Kailashpuri,
Behind Golimar Garden,
Ajmer Road, Jaipur,
presently working as Record Keeper,
O/o the Census Operations,
6B Jhalana Doongri,
Jaipur.

.. Applicant

(By Advocate: Mr. P.N.Jatti)

Versus

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

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3. The Director,
Directorate of Census Operation,
B-6, Jhalana Doongari,
Jaipur.

.. Respondents

(By Advocate: Shri Tej Prakash Sharma for resp. No. 1 and 2 and Mr. Hemant Mathur for respondent No.3)

ORIGINAL APPLICATION No.432/2005

Gulab Singh,
S/o Shri Panna Singh,
aged about 58 years,
r/o G-72, Mazdoor Nagar,
Jaipur, presently working
in the office of the
Directorate of Census Operation,
6B Jhalana Doongri,
Jaipur.

.. Applicant

(By Advocate: Mr. P.N.Jatti)

Versus

1. Union of India
through Secretary,
Ministry of Urban Development and
Poverty Alleviation,
Government of India,
Directorate of Estates (Policy III Cell),
Nirman Bhawan,
New Delhi.
2. The Estate Officer,
Central Public Works Department,
Office of the Executive Engineer,
Jaipur Central Division-I,
N.C.R. Building,
Statute Circle,
Jaipur.
3. The Director,,
Directorate of Census Operation,
B-6, Jhalana Doongari,
Jaipur.

.. Respondents

(By Advocate: Shri Tej Prakash Sharma for resp. No. 1 and 2 and Mr. Hemant Mathur for respondent No.3)

ORIGINAL APPLICATION No.434/2005

Ram Karan
S/o Shri Sedu Ram,
aged about 56 years,
r/o 198, Brij Vihar Colony,
40 Feet Road,
Jagatpura, Jaipur,
presently working as
Statistical Investigator Gr.III,
O/o the Director, Census Operations,
6B Jhalana Doongri,
Jaipur.

.. Applicant

(By Advocate: Mr. P.N.Jatti)

Versus

1. Union of India
through Secretary,
Ministry of Urban Development and
Poverty Alleviation,
Government of India,
Directorate of Estates (Policy III Cell),
Nirman Bhawan,
New Delhi.
2. The Estate Officer,
Central Public Works Department,
Office of the Executive Engineer,
Jaipur Central Division-I,
N.C.R.Building,
Statute Circle,
Jaipur.
3. The Director,,
Directorate of Census Operation,
B-6, Jhalana Doongari,
Jaipur.

.. Respondents

(By Advocate: Shri Tej Prakash Sharma for resp. No. 1 and 2 and Mr. Hemant Mathur for respondent No.3)

O R D E R

Per Hon'bl Mr. M.L.Chauhan.

By this common order, I propose to dispose of these three OAs where common question of law and facts is involved.

2. Briefly stated, the applicants are Central Govt. Employees working in Census Departments. They were allotted Government accommodation according to their entitlement on different dates. Since the applicants refused to take possession of the allotted quarters, subsequently these quarters were allotted to other employees. In the case of applicant in OA No.431/05, Quarter No.80, Sector-7, Vidyadhar Nagar, remained in the name of the applicant from 29.9.04 to 12.10.04 and has been allotted to Shri K.L.Tilwani on 12.10.2004. It is further stated that presently the said quarter is in possession of Shri Rajendra Singh who is residing in that quarter from 10.3.2005. In the case of applicant in OA No.432/05, Quarter No.8, Sector-7, Vidyadhar Nagar, Jaipur remained in the name of the applicant from 4.11.04 to 9.3.2005 and the same quarter was allotted to Shri Rajendra Singh, Draftary on 10.3.2005 who is presently residing in the said quarter. In OA No. 434/2005, Quarter No. 120, Sector-

II, Vidyadhar Nagar, Jaipur remained in the name of the applicant w.e.f. 15.1.2004 to 23.3.2004 and the said quarter was further allotted to Shri Sohan Lal Verma on 24.3.2004. It is further stated that Shri Meena is residing in the said quarter. The grievance of the applicants in these OAs is that since the quarters as mentioned above remained in the name of the applicants for a short period, as stated above, and thereafter these were re-allotted to other employees, as such, respondents may be directed to pay HRA to the applicants except for the period when the said quarters remained allotted in the name of the applicants.

3. Notice of these applications were given to the respondents. The respondents in nutshell have stated that since the aforesaid quarters were allotted to the applicants but they did not take possession of the same, as such, non-acceptance of allotment in normal course leads to forfeiture of HRA.

4. The applicants have not filed any rejoinder.

5. I have heard the learned counsel for the parties 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 of 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."

7. The reasoning given by this Tribunal in OA No. 74/2005 is squarely applicable in the facts and circumstances of this case. In the instant case, the case of the applicants is that the allotment in the name of the applicants remained for few months and it

was re-allotted to other employees, as such, the respondents were not right to forfeit the HRA after the period when the said quarter was re-allotted to another employee. It is not the case of the applicants that the allotment of the aforesaid quarters was made in violation of allotment rules. As already stated above, rather the case of the applicants is that the respondents could have stopped the HRA for a period when the said quarter remained allotted in their names and not thereafter. Thus, the contention of the applicants that HRA of the applicants could be stopped only for a limited period when allotment remained in their names is bereft of merit in view of the provisions contained in SR 317-B-10(1) read with Rule 4(b)(i) of HRA and CCA- General Rules and Orders. Further contention of the learned counsel for the applicants that the respondents have not passed such orders in terms of rule *ibid*, as such the respondents cannot stop HRA of the applicants is bereft of merit in view of the provisions contained in SR-317-B-10(1) and Rule 4(b)(i) of HRA and CCA Rules as quoted above which provide consequences for non-acceptance of Govt. accommodation which has been allotted to Govt. employees. The technical plea raised by the learned counsel for the applicants has no relevance in view of the statutory provisions, which provides consequence of forfeiture of HRA for a period of one year from the date of the allotment letter.

8. For the foregoing reasons, the OA is dismissed. It is further clarified that the respondents can stop the HRA of the applicants 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 applicants 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.

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

(M.L. CHAUHAN)
Member (Judicial)

R/

V. No. 258 to 260
~~261 to 262~~

dated 13.4.2006

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