

(6)

NOTES OF THE REGISTRY

ORDERS OF THE TRIBUNAL

3.4.07

Mr. P. N. Tath, Counsel for applicant.

Mr. Hemant Mathur, Counsel for respondents No. 1 & 2.

Mr. Kunal Rawat, Counsel for respondent No. 3.

Heard the learned Counsel for the parties.

The OA stand disposed of by a separate order.

(P. S. Chakraborty)
M.A.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
JAIPUR BENCH, JAIPUR.

Jaipur, the 3rd day of April, 2007

ORIGINAL APPLICATION NO.326/2006

CORAM :

HON'BLE MR.J.P.SHUKLA, ADMINISITRATIVE MEMBER

Vishamber Dayal
s/o Shri Badri Prasad,
r/o Plot No.1, Nirmal Vihar,
Dadi ka Phatak,
Jaipur.

By Advocate : Shri P.N.Jatti

... Applicant

Versus

1. Union of India through
The Registrar General,
Census,
Ministry of Home Affairs,
2A, Mansingh Road,
New Delhi.
2. Assistant Director,
Department of Census,
6B, Jhalana Doongri,
Jaipur.


By Advocate : Shri Hemant Mathur

3. Estate Officer,
Central Public Works Department,
Jaipur Central Division,
NCR Building, Statue Circle,
Jaipur.

By Advocate : Shri Kunal Rawat

... Respondents

ORDER (ORAL)


PER HON'BLE MR.J.P.SHUKLA

The short controversy involved in the present case is that the quarter in question was allotted to the applicant on 28.10.98 and he continued to occupy

the same till it was surrendered on 15.4.2006, as he had arranged his own⁴ house. He prayed for grant of HRA w.e.f. 16.4.2006 but the same was denied, hence this OA.

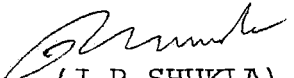
2. Contention of the learned counsel for the applicant is that after vacation of the quarter in question by the applicant on 15.4.2006, the same has been taken over by the CPWD on the same day and allotted to some other employee w.e.f. 22.8.2006, who has also occupied the said quarter, but still the grant of HRA has been denied to the applicant. He also produced a copy of the letter dated 22.8.2006 to this effect. He also placed reliance on a decision of this Tribunal, passed in OA 561/2004 - **K.L.Tilwani v. Union of India & Ors.**, decided on 29.8.2005.

3. The respondents have contested the claim of the applicant by filing separate replies. In the reply filed on behalf of respondents No.1 and 2, it is contended that for drawl of HRA a 'non-availability certificate' is necessary and the applicant has not been issued the same after vacating the quarter and vacation of government accommodation on his own will lead to forfeiture of HRA. In the reply filed by respondent No.3, it is pleaded that the HRA is given to those employees of the Central Government who have obtained 'No Accommodation Certificate'. The submission of said certificate is mandatory because HRA is given in lieu of accommodation not provided by the Government. In the instant case, the applicant has vacated the government accommodation on his own, which clearly proves that the government accommodation was made available to him. Hence the applicant is not entitled to get HRA. He placed reliance on a case of Delhi High Court in **Smt.Babli & Anr. V. Government of NCT, Delhi**, reported at 2003 (3) SLR 733.

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4. After having heard the learned counsel for the parties, I am of the considered view that the respondents cannot be allowed to deduct the HRA of two government employees towards one quarter and it will

be fair and ends of justice will be met if a direction is given to the respondents to allow HRA to the applicant w.e.f. 23.8.2006, as after surrendering and vacation by the applicant on 15.4.2006, the quarter in question has already been allotted by the CPWD w.e.f. 22.8.2006 to some other needy employee and in fact the applicant has helped the Organisation by surrendering the quarter as other needy employee has been able to get the accommodation.

5. Accordingly, the OA is allowed and the respondents are directed to grant HRA to the applicant w.e.f. 23.8.2006. Arrears to be calculated and paid to the applicant within a period of two months from the date of receipt of a copy of this order, failing which the respondents will be liable to pay interest at the rate applicable to the GPF deposits. No costs.


(J.P. SHUKLA)
MEMBER (A)

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