

**CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR**

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ORDER SHEET

ORDERS OF THE TRIBUNAL

22.03.2012

OA No. 243/2009

Mr. S. Shrivastava, Counsel for applicant.
Mr. Anupam Agarwal, Counsel for respondents.

Learned counsel for the applicant does not wish to file
rejoinder. Pleadings are thus complete.

Heard. The OA is disposed of by a separate.

Anil Kumar
(Anil Kumar)
Member (A)

ahq

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
JAIPUR BENCH, JAIPUR.

Jaipur, the 22nd day of March, 2012

ORIGINAL APPLICATION No. 243/2009

CORAM :

HON'BLE MR. ANIL KUMAR, ADMINISTRATIVE MEMBER

Ajay Shukla son of Shri Krishna Shukla aged about 54 years, resident of 120, Nemi Nagar, Extension, Vaishali Nagar, Jaipur. Presently posted as Chief Operations Manager in North Western Railway at Jaipur.

... Applicant

(By Advocate : Mr. S. Shrivastava)

Versus

1. Union of India through General Manager, North Western Railway, Headquarter office in front of Railway Hospital, Hasanpura Road, Jaipur.
2. Chief Personnel Officer, North Western Railway, Headquarter Office in front of Railway Hospital, Hasanpura Road, Jaipur.

... Respondents

(By Advocates : Mr. Anupam Agarwal)

ORDER (ORAL)

The applicants have filed this OA praying for the following reliefs:-

- "(I) That this Hon'ble Tribunal may graciously be pleased to direct the respondents to allow the House Rent Allowance to the petitioner for which petitioner is legally entitled to get as per the rule in this regard.
- (II) That the illegal and arbitrary Order dated 28.04.2009 may be quashed and be made ineffective by which respondents have earmarked the house in respect of the post on which petitioner is working under referred order and forcing the petitioner to get possession of the said allotted house.
- (III) Any other order, which may be deemed fit and proper by this Hon'ble Tribunal, may be passed in favour of the petitioner."

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2. Heard learned counsel for the parties and perused the relevant documents on record. Learned counsel for the applicant argued that the applicant was transferred from Delhi to Jaipur as COM vide order dated 14.03.2008. That he was allowed ear-marked accommodation by the respondents vide order dated 02.01.2009 (Annexure A/4). Prior to that, the applicant was staying in the Guest House No. 9, Ganpati Nagar, Railway Colony, Jaipur. Subsequently, another house was ear-marked for COM vide order dated 13.03.2009 (Annexure A/5) and he was asked to occupy that house within one moth. That the applicant made a request to the respondents to allot a residential accommodation in the Ganpati Colony on the ground that his wife has to undergo a surgery in Central Hospital of the Railways, Jaipur (Annexure A/6). Subsequently, the applicant vide note dated 13.04.2009 (Annexure A/3) informed that he has vacated the officer Guest House No. 9, Ganpati Nagar Jaipur on 11.04.2009 and as such, deduction of rent for HRA may be stopped. That he has taken a private accommodation w.e.f. 11.04.2009 and as such HRA as admissible under the rules, may be paid with his salary. But the respondents have not paid him the HRA. They again issued a letter dated 28.04.2009 (Annexure A/1) vide which he was asked to take the possession of the Railway House No. 14, Jagatpura Railway Colony, allotted to him earlier. This letter further stated that any exemption from the above will require personal approval of the GM. The applicant requested to cancel the allotment of House No. 14, Jagatpura Railway Colony, as he has taken private house and also on the

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ground that he had already applied for a house in Ganpati Nagar Colony, stating family reasons.

3. Learned counsel for the applicant also argued that the applicant has not been given HRA though some other officers have been given HRA. He also argued that it is only the officers like the applicants who are compelled to take possession of those houses and why not others of said echelon. Therefore, he submitted that the applicant be allowed HRA.

4. On the contrary, learned counsel for the respondents argued that the applicant was allotted the ear marked accommodation vide order dated 02.01.2009 (Annexure A/4) and 13.03.2009 (Annexure A/5). As per the rules, it is obligatory on the part of the employee to accept the ear-marked accommodation failing which he is not entitled for HRA. Even otherwise, HRA is payable in lieu of non availability/allotment of suitable accommodation to the employees concerned. Surrender/refusal or failing to submit any request is not ground for admissibility of the Allowance. He further argued that it is prerogative of the respondents to ear-mark the accommodation available with them to facilitate their functioning for easy accessibility of its employees during emergency. He admitted that the applicant had requested for residential accommodation in Ganpati Nagar Railway Colony but because of non availability of accommodation in headquarters pool of the colony, his request could not be

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acceded to. He further argued that the averments made by the learned counsel for the applicant about the distance from the work place or the personal problems have no relevance in this case. When the residence was ear marked to a post. He drew my attention to the Railway Board letter dated 16.03.2000 (Annexure R/1) which deals with the subject of admissibility of HRA in the event of non acceptance or surrender of railway residential accommodation. In this circular, the power to sanction HRA to Railway employee who do not accept the Government accommodation even when it is allotted to them is delegated to the General Manager and other Heads of the Organizations etc. However, this circular further states that "this concession is, however, not admissible to employees for whom Railway accommodation is specifically earmarked or to those employees, whose occupation of Railway quarters is essential for easy accessibility during emergencies, efficient discharge of their duties etc."

In view of this circular, he argued that since accommodation was ear-marked for the post, and applicant did not occupy that accommodation, therefore, he is not entitled for any HRA.

5. Having heard the rival submissions of the parties and on careful perusal of the documents on record, I am of the opinion that the applicant has failed to make out any case for interference of this Tribunal. This is not disputed that the Railway Administration had ear-marked House No. 1 Type V in Jagatpura Railway Colony, which was subsequently changed to

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House No. 14 of the same colony but the applicant did not occupy the same due to his personal problems. The applicant was reminded by the Railway Administration vide order dated 28.04.2009 to occupy the same by 05.05.2009 positively. As per the circular of the respondents RBE 46/2000 dated 16.03.2000, the facility of HRA in lieu of Government accommodation is not admissible to employees for whom Railway Accommodation is specifically ear-marked or to those employees whose occupation of the quarter is essential for easy accessibility during emergency to the efficient discharge of the duties etc. Therefore, in view of the specific instructions of the respondents on the subject, in my opinion, the applicant is not entitled to HRA in lieu of ear-marked accommodation.

6. Consequently, the OA being devoid of merit is dismissed with no order as to costs.

Anil Kumar
(Anil Kumar)
Member (A)

AHQ