

**CENTRAL ADMINISTRATIVE TRIBUNAL
CHANDIGARH BENCH**

...
(Reserved on 15.01.2016)

OA No. 060/01085/2014

Date of decision- 21.01.2016

...

**CORAM: HON'BLE MR. SANJEEV KAUSHIK, MEMBER (J)
HON'BLE MR. UDAY KUMAR VARMA, MEMBER (A)**

...

Manjit Kaur

W/o S. Nirmal Singh,

R/o House No. 2354,

Phase 10, Mohali, Punjab.

...APPLICANT

BY ADVOCATE : Sh. R.P. Rana

VERSUS

1. Director DOEACC Society,
National Institute of Electronics and Information Technology
presently at Har Gobind Khorana Guest House
National Institute of Technical Teacher Training and Research
Sector, 26,
Chandigarh.
2. Joint Director (Admn) Presently at
Har Gobind Khorana Guest House
National Institute of Technical Teacher Training and Research
Sector, 26,
Chandigarh.

...RESPONDENTS

BY ADVOCATE: None

ORDER**HON'BLE MR. SANJEEV KAUSHIK, MEMBER (J):-**

The applicant is aggrieved against the order dated 31.07.2014 (Annexure A-1) and order dated 21.08.2014 (Annexure A-2) whereby the respondents have decided to make recovery of Rs. 4,50,358/- in 36 installments from the salary of the applicant along with penal interest on the premise that applicant has wrongly drawn the HRA for the period from 01.04.1982 to 31.03.1994.

2. Brief facts leading to the filing of present case are that the applicant has been working as Data Entry Operator in the office of Respondent No.2 since 16.10.1979. She was issued a letter dated 20.10.2010 to offer explanation for wrong drawal of HRA for the period from 01.4.1982 to 19.10.2005. Dissatisfied with the reply of the applicant, the respondents had passed an order dated 1.11.2012 for making recovery of HRA and penal interest thereon for the period 1.4.1982 to 19.10.2005 amounting to Rs.8,66,605/-. The said action of the respondents was subject matter before this Court in O.A No. 1223/PB/2012 which was decided on 02.05.2014 wherein while disposing of the O.A, this court came to the conclusion that the applicant was not entitled for drawal of HRA for the period of 01.04.1982 to 31.03.1994 but for the subsequent period, the applicant was held entitled for drawal of HRA. Action of the respondents in making recovery of HRA for the period 31.03.1994 to 19.10.2005 was set aside but action for recovering the HRA for the period of 01.04.1982 to 31.03.1994 was maintained and consequently, order of recovery with some penal interest was also upheld and a direction was issued to respondents to recalculate the amount for the above period and interest as leviable under the Rules may be recovered from the applicant. It is in this context that the respondents have passed the

impugned order which is subject matter before this court in present O.A.

3. Sh. R.P. Rana, learned counsel for the applicant submitted that action of the respondents in levying compound interest on Rs.27,600/- which the applicant has wrongly drawn HRA is arbitrary and illegal. Now the respondents have ordered to recover an amount of Rs. 4,50,358/- in 36 installments and a sum of Rs.26,605 has already been recovered from total amount of Rs.4,76,963/-. He submitted that at the most they can levy simple interest but not the compound interest. Hence the O.A.

4. None has put in appearance on behalf of the respondents despite third call and as such we proceeded to decide the O.A. under rule 16 of the C.A.T (Procedure) Rules, 1987.

5. We have perused the averment made in the written statement wherein the respondents have taken a preliminary objection that present O.A is not maintainable as this issue has already decided by this court in earlier round of litigation vide order dated 02.05.2014 which is now subject matter before the Hon'ble High Court at the hands of the respondents for judicial review in CWP No. 15204/2014 pending adjudication. It is further submitted that in terms of provisions contained in General Financial Rules, Penal Interest is recoverable on the advances excess drawn by any government servant and in terms of Employee's Provident Fund Scheme, 1952, it is also submitted that in case an employee, draws HRA to which he is not entitled to, the authorities are entitled to make recovery of that amount with some interest. He/she can also be subjected to disciplinary proceedings.

6. We have given our thoughtful consideration to the entire matter and have perused the pleadings available on record.

7. We are of the view that the present O.A is not maintainable for simple reason that in earlier round of litigation, this

court in its order dated 02.05.2014 had already upheld the decision of the department for levy of penal interest for the period from 01.04.1982 to 31.03.1994 and the respondents in furtherance of order of this court have passed the impugned order. Once the action of the respondents in levying penal interest has already approved by this court then for same cause of action, second petition is not maintainable and if she still feels aggrieved then either she can move an appropriate application in the pending writ petition or seek clarification of order dated 02.05.2014.

8. In view of the above, the instant O.A is dismissed being not maintainable. No costs.

(UDAY KUMAR VARMA)
MEMBER (A)

(SANJEEV KAUSHIK)
MEMBER (J)

Dated: 21.1.2016

'jk'

