

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI**

**OA No. 2381 of 2017
M.A No. 2535 of 2017**

New Delhi, this the 16th August, 2017

Hon'ble Shri K. N. Shrivastava, Member (A)

Smt. Sushma Rani aged about 38 years
(DOB 01.07.1979) D/o. Shri. Bhopal Singh
Staff Nurse CGHS
Dispensory S. K. Road, Meerut. ...Applicant

(By Advocate : Sh. V. P. S. Tyagi)

Versus

1. The Union of India (Through Secretary),
Ministry of Health and Family Welfare,
Dept. of CGHS,
Nirman Bhawan,
New Delhi.
2. The Director General of CGHS,
Nirman Bhawan,
New Delhi.
3. The Additional Director (CGHS)
Swasthya Bhawan,
S. K. Road, Meerut.Respondents

(By Advocate : Mr. Rajinder Nischal)

O R D E R (O R A L)

Hon'ble Shri K. N. Shrivastava, Member (A)

The applicant was married to one Shri Harendra Kumar, S/o. Sh. Munna Lal on 11.02.2008. After her marriage, she was living with her husband. She was appointed as a Staff Nurse on 30.06.2008 in CGHS under the respondents. She continued to live with her husband up to 01.08.2011. Her husband is an employee of Irrigation Department of U.P

Government and had been provided with State Government accommodation.

2. The marital relationship between the applicant and her husband deteriorated to such an extent that both of them have filed separate suits for separation in the Court of Law. A copy of the applicant's suit filed in the Court of District Judge, Family Court is at Annexure A/3. It is an admitted fact that the applicant has not been staying with her husband since August, 2011. Husband of the applicant has allegedly complained to the respondents that the applicant has been drawing HRA illegally (pg 18A). Acting on the complaint of her husband, the respondents had stopped paying HRA to the applicant. The applicant approached the Allahabad Bench of the Tribunal in O.A No. 330/00719/2016 claiming payment of HRA to her, since she is a Central Government Employee and has not been provided with Government accommodation. The said O.A was disposed of with direction to the respondents to take a decision as per law about the grant of HRA to the applicant. Complying with the said direction of the Allahabad Bench, the respondents vide impugned Annexure A/1 order dated 28.04.2016 have held that the applicant is not eligible for HRA till she produced some documents in consonance of HRA Rules in her favour. Annexure A/1 order reads as under :-

“On the basis of Enquiry committee observation & opinion of Legal opinion committee CGHS Meerut & Legal opinion of District Government Counsel & Central Government Standing Counsel Meerut (As requested by the individual) &

in consonance of HRA CCA Rules Para 5 (C) (iii) Smt. Sushma Rani (Staff Nurse) is not entitled for grant of HRA since the time of joining her duty i.e 30.06.2008 & she will not be eligible for HRA till she produces some document in consonance of HRA Rules in her favour.

Accounts Section CGHS Meerut is directed to cease HRA of Smt. Sushma Rani (Staff Nurse) from current payroll and make recovery of overpaid amount of HRA as per extent rules on the subject.”

3. Heard Sh. V. P. S. Tyagi, learned counsel for the applicant and Sh. Rajinder Nischal, learned counsel for the respondents.

4. It is admitted that the applicant and her husband are staying separately since August, 2011. It is also an admitted fact that the applicant has not been provided any Central Government accommodation. No doubt the applicant's husband has been provided with a U.P. Government accommodation but, since the applicant is not staying with her husband since August, 2011, the official accommodation provided to her husband is of no avail to her.

5. Shri. Rajinder Nischal, learned counsel for the respondents contends that the applicant has not been judicially separated from her husband and since her husband continues to reside in a Government accommodation, the applicant cannot be granted the benefits of HRA.

6. I have considered the arguments of learned counsel for the parties as well as the pleadings and documents therein.

7. The fact that the applicant had been staying separately from her husband since August, 2011 is admitted by the respondents. It is also not denied by the respondents that applicant has not been provided with any Central Government accommodation. The official accommodation provided by the UP State Government to her husband is of no use to the applicant as she has not been staying with him since August, 2011 and both of them have filed separate suits in the Family Court for judicial separation.

8. In this view of the matter, I am of the opinion that the applicant should be granted the benefits of HRA as is applicable to all the Central Government employees who are not provided with Government accommodation.

9. In view of the discussion in the pre-paras, this O.A is disposed of with a direction to the respondents to grant HRA to the applicant as per her eligibility in terms of the HRA Rules with effect from 01.08.2011 i.e., the date with effect from which she has been staying separately from her husband. Arrears of the admissible HRA shall be released to the applicant within three months from the date of receipt of a copy of this order. No order as to costs.

(K. N. Shrivastava)
Member (A)

/Mbt/