

**Central Administrative Tribunal  
Principal Bench, New Delhi.**

**OA-2675/2013**

**Reserved on : 27.11.2017.**

**Pronounced on : 30.11.2017.**

**Hon'ble Ms. Praveen Mahajan, Member (A)**

Sh. K.P. Bhaskar,  
S/o Sh. Phooli Singh,  
R/o Permanent r/o208, Ambedkar Nagar  
(Chowk Mohalla),  
Kankar Khera, Meerut Cantt. (UP),  
Presently posted in J.N.V., West Imphal,  
Manipur. .... Applicant

(through Sh. Yogesh Sharma, Advocate)

Versus

Navodaya Vidyalaya Samiti  
Through the Commissioner,  
B-15, Sector 62, Institutional Area,  
Noida-201307 (UP). .... Respondents

(through Sh. S. Rajappa, Advocate)

**O R D E R**

The issue to be adjudicated in the current O.A. is whether as per the Rules the applicant is entitled to double rate HRA during a posting in North East.

2. Briefly stated, the facts of the case are that the applicant was promoted to the post of Principal with Navodaya Vidyalaya Samiti (NVS) vide order dated 07.04.2008. On his promotion, he was posted in JNV Jalpaigudi in Patna Region. His services were terminated vide

order dated 05.08.2010 by the Commissioner of NVS. Against the termination order, the applicant filed an appeal on 08.09.2010. In his afore mentioned appeal, the applicant specifically requested that he may be allowed to do his duties as Vice-Principal since he had been found unsuitable only for the post of Principal. When the applicant was not allowed to perform his duties as Vice-Principal, he represented to Commissioner, NVS on 04.09.2010. This was followed by filing OA-3928/2011 before this Bench of CAT. The said O.A. was disposed of on 03.11.2011 directing NVS to consider and dispose of the appeal dated 08.09.2010, which was disposed of by the respondents on 04.01.2011. The applicant filed the second OA-3931/2011 for regularization of period of absence from the date of his termination, from the post of Principal, to the date of rejoining the lien post i.e. Vice-Principal. The representation of the applicant was considered and disposed of on 12.04.2012. The applicant again filed the third OA-1916/2012 for grant of double HRA in Shillong Region from the date of joining his lien posting of Vice-Principal. The same was disposed of by the Tribunal on 21.05.2012 directing the NVS to decide his claim. NVS has issued order dated 23.07.2012 by which they have rejected the applicant's claim for double HRA.

3. The applicant has, therefore, filed the present O.A. seeking the following relief:-

"(i) That the Hon'ble Tribunal may graciously be pleased to pass an order of quashing the impugned order dated 23.7.2012

(Annex.A/1) only in respect of double rate HRA and consequently, pass an order directing the respondents to grant the double rate HRA to the applicant from the date of his posting in JNC West Imphal Manipur at an early date with arrears and interest @ 18% p.a.

(ii) Any other relief which the Hon'ble Tribunal deem fit and proper may also be granted to the applicant along with the costs of litigation."

4. During the course of arguments, learned counsel for the applicant Sh. Yogesh Sharma stated that provisions for claiming double HRA for officers posted in North East Region have been elaborated in O.M. dated 24.09.2003 issued by Ministry of Finance (Department of Economic Affairs), which reads as under:-

"Central Government employees posted to the specified States/Union Territories from outside the N.E. Region who are keeping their families in rented houses or in their own houses at the Last place of posting outside the N.E. Region will be entitled to HRA admissible to them at the old station and also at the rates admissible at the new place of posting in case they live in hired private accommodation irrespective of whether they have claimed transfer T.A. for family or not subject to the condition that hired private accommodation or owned house at the Last station of posting is put to bona fide use of the members of the family."

5. The learned counsel emphasized that in the impugned order dated 23.07.2012, it has been alleged that Sh. K.P. Bhaskar (applicant) was provided with rent free accommodation at JNV Aurangabad (Bihar) and he had not kept his family at Aurangabad in a rented accommodation, hence the above quoted rule position (of grant of double HRA) is not attracted in his case. He explained that the respondents have wrongly stated that the applicant was provided rent free accommodation at JNV, Aurangabad (Bihar).

Actually the accommodation meant for the Principal, continued to be occupied by the earlier incumbent, namely, Sh. H.N. Pandey and the same was not vacated by him. During the entire period that the applicant remained posted in JNV Aurangabad (Bihar), he was residing in a guest room since he did not have access to the rent free accommodation. The ear marked accommodation being in possession of his predecessor Sh. H.N. Pandey, he could not shift his family to JNV, Aurangabad (Bihar). His family continued to reside at the previous place of posting i.e. at Meerut, UP, while he himself stayed in the campus guest house. Learned counsel Sh. Yogesh Sharma drew my attention to the additional affidavit filed by the respondents wherein they have admitted this fact. It has been stated therein that:-

“2.(ii) Jawahar Navodaya Vidyalaya is a residential school where all teaching staff has to stay at Vidyalaya campus and look after the students as loco parent. For this purpose, a rent free accommodation are being provided to the teaching and non teaching staff. After the posting of the applicant Sh. K.P. Bhaskar at JNV, Imphal West w.e.f. 21.04.2011 he had left his family at his native place that is at Meerut. His family was not living during the relevant period at Aurangabad. Therefore, as per the above quoted rule, since the family of the applicant was not living in Aurangabad from where the applicant was posted to NE, he is not eligible for double HRA benefit.

(iii) That, the contention of the applicant that during his stay at JNC, Aurangabad, he was not provided Principal accommodation is nothing but to mislead this Hon'ble Tribunal, in fact a designated accommodation was provided to the Principal of a Jawahar Navodaya within the campus itself. It is reported that the earlier incumbent stayed in the said accommodation without proper **approval**. **“Non-occupation of the same by Shri K.P. Bhaskar because the previous incumbent did not vacate the same, is not acceptable. It is the duty of the current incumbent to ensure that no unauthorized person stays in the official accommodation available inside a Vidyalaya campus”.** Further, **“the designated**

**accommodation/guest room mentioned by the applicant in respect of Jawhar Naovdaya Vidyalaya, Aurangabad, Bihar was a full-fledged house with hall, bedroom, kitchen, dining room, bathroom, toilet and was not a single room".** It would not be out of course to mention here that the applicant did not keep his family with him during the posting at JNV, Aurangabad."

In the absence of his entitled accommodation, the applicant had no option but to leave his family at Meerut, his earlier place of posting.

6. Rebutting these arguments, learned counsel for the respondents Sh. S. Rajappa stated that the aforementioned O.M. dated 24.09.2003 stipulates that double HRA is available to Central Government employees, who get posted to N.E. Region but who are keeping their families in rented houses or in their own houses, at the last place of posting. Since the conditions as mentioned in the O.M. were not fulfilled in the case of the applicant, hence payment of double rate HRA is not applicable in his case. He also argued that the statement of the applicant that he was not given the Principal's accommodation at JNV, Aurangabad since his predecessor Sh. H.N. Pandey did not vacate the accommodation is not a sound argument. Sh. Rajappa submitted that Sh. Pandey was in unauthorized occupation of the Principal's accommodation, which was meant for the incumbent Principal. It was the duty of the current incumbent to ensure that no unauthorized person stays in the official accommodation available inside a Vidyalaya campus. He

also added, that the designated guest room mentioned by the applicant in respect of JNV, Aurangabad was a full-fledged house with hall, bedroom, kitchen, dining room, bathroom, toilet etc. and was not a single room. Hence, he has rightly been denied the benefit of double HRA.

7. I have considered the rival contentions of both the counsels for the parties and gone through the submissions made in the OA, counter reply, the rejoinder of the applicant & the additional affidavit filed by the respondents.

8. It is borne out from the facts on record that the applicant during his stay at JNV, Aurangabad was staying in a guest room since the designated house meant for the Principal continued to be in possession of the earlier Principal Sh. Pandey. Under these circumstances, it was not possible for the applicant to shift his family to Aurangabad, who continued to reside at Meerut, his earlier place of posting. Shifting his family to a guest house in Aurangabad, without a proper residential accommodation, would have put them to grave inconvenience. I am not convinced by the argument put forth by the respondents that it was upto the applicant to ensure that the earlier Principal vacated the official accommodation. Steps to get the official accommodation vacated, had to be taken by the

respondents, to allow the present incumbent a peaceful entry to the designated accommodation.

9. A reading of the O.M. dated 24.09.2003 shows that the employees posted to North East Region are entitled to HRA at the admissible rates, in case they do not shift their families to the new place of posting and keep them in a rented accommodation or in their own houses. This condition, in my view, is squarely met with in the instant case. The inference drawn by the respondents that since the applicant had not kept his family at Aurangabad in a rented house and they were residing at his own house in Meerut, hence he is not entitled to double HRA is totally misleading and incorrect. To say that the applicant was provided with rented accommodation at JNV Jalpaigudi, stands belied by the factual position admitted by them in their additional affidavit, wherein they have admitted that the earlier incumbent continued to be in unauthorized possession of the official accommodation while the applicant was staying in a guest room.

10. In view of the above facts and circumstances of the case, I quash the impugned order dated 23.07.2012 and direct the respondents to grant double rate HRA to the applicant from the date of his posting to JNV, Aurangabad. This may be done within a period of two months from the date of passing of this order. I am,

however, not inclined to grant any interest in this case. The O.A. is accordingly allowed. No costs.

**(Praveen Mahajan)  
Member (A)**

/Vinita/