

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

OA-2748/2013

Reserved on : 29.08.2018.

Pronounced on : 25.09.2018.

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

1. Dr. Suresh Kumar, CMO incharge
S.A.G. grade
R/o CL 801, ELDECO Green Meadows,
Sector P-1, Greater Noida.
2. Dr. Amrita Verma, Medical Officer
R/o 802, New Staff Quarter, Sharda
Hospital, SGI Campus, Knowledge Park
3 Greater Noida, UP. Applicants

(through Mr. A.K. Ojha with Ms. Richa Ojha, Advocate)
Versus

1. Secretary Ministry of Health and
Family Welfare, Nirman Bhavan,
New Delhi.
2. Director General,
C.G.H.S., Nirman Bhavan,
New Delhi.
3. Additional Director, CGHS Delhi
(East Zone), Laxmi Nagar, Delhi.
4. Secretary Ministry of Finance, Deptt.
of Expenditure, N. Block. Respondents

(through Sh. Rajinder Nischal, Advocate)

ORDER

MA-2117/2013 in OA-2748/2013 filed for joining together in one application is allowed.

2. The applicants in the current O.A. are Doctors of General Duty Medical Officer sub-cadre of Central Health Group-A Service, posted in Delhi, C.G.H.S. (East Zone), Laxmi Nagar, New Delhi. They were working in Noida Wellness Centre till November, 2011. Vide Office Order dated 26.11.2012, they were temporarily deployed to Greater Noida (WC), and they were paid House Rent Allowance @30% till April, 2013. In the Audit Inspection of CGHS (East Zone), Laxmi Nagar, Delhi (for the financial year 2011-2012), an objection was raised regarding grant of HRA to the applicants @ 30% (Delhi Rates). It was held that as per Sixth Central Pay Commission recommendations issued vide O.M. No. 2(13)/2008-EII dated 29.08.2008 and 01.09.2008 Greater Noida has been classified as 'Z' class town for grant of HRA. Consequently, the HRA of the applicants was reduced from 30% to 10% by the respondents w.e.f. May, 2013.

3. The applicant aver that all the CGHS Wellness Centres of NCR sub-regions of Uttar Pradesh have been granted HRA @30% except Greater Noida. Other cities like Ghaziabad and Noida in U.P. sub-region have been granted House Rent Allowance (HRA) @30%. These cities have been classified as 'X' for the purpose of house rent allowance, though these cities are similarly situated like Greater Noida, which has wrongly been categorized as 'Z'.

4. The applicants represented to the respondents on 06.06.2013 for grant of House Rent Allowance @30% as admissible to other NCR towns like Ghaziabad and Faridabad but did not receive favourable consideration. Aggrieved, the applicants have filed the current O.A. seeking the following reliefs:-

- “(i) To quash the arbitrary reduction of H.R.A. of the applicant with effect from May 2013 from 30% to 10% done on the basis of para 10 of Annual report for the year 2011-2012.
- (ii) To quash para 10 of the Audit Report for the year 2011-2012 so far as it treats the applicants eligible for H.R.A. at the rates applicable to unclassified cities at the rate of 10%.
- (iii) To direct the respondent to treat the applicant at par with the Central Govt. Employees of Ghaziabad and Noida for grant of HRA at Delhi rates. The applicants are similarly situated and similarly circumstances for payment of HRA as employees of C.G.H.S. Ghaziabad and Noida being in the same Subregion of NCR and lying in closed proximity of Delhi.
- (iv) To quash any recovery of HRA as outcome of the para 10 of the Audit Inspector Report 2011-2012.
- (v) To declare the treatment of Greater Noida by the respondents as unclassified city for payment HRA as discriminatory, illegal, arbitrary and unconstitutional and set aside the same.”

5. The respondents in their counter affidavit contend that the place of posting of the applicants was Greater Noida Wellness Centre, which comes under the administrative control of Additional Director, CGHS (East Zone). The reduction of HRA from 30% to 10% was done as per the objection raised by the Audit for the year 2011-12, in pursuance of OM No.2(8)/2012-E-II(B) dated 06.08.2012 and O.M. No. 2(13)/2008-E-II(B) dated 29.08.2008. Thereafter, they were paid HRA @ 10% from June, 2013. As per CCS (CCA) Rules, HRA is

payable with regard to the place of duty, irrespective of the place of residence of a government servant, accordingly recovery was carried out from the applicants' respective salaries from March 2013 to May 2013.

6. I have gone through the facts of the case carefully and considered the rival submissions. The applicants in OA submit that they are entitled to House Rent Allowance @ 30% as applicable to Noida, Faridabad and Ghaziabad. They contend that Greater Noida is contiguous to Noida within pari materia to 8 kms. of the Noida city. Hence, the applicants working in Greater Noida, are entitled for payment of House Rent Allowance @30% as applicable to Noida city.

7. It is essential to briefly touch upon the background of the issue before finally adjudicating the matter. Prior to 01.09.2008 Greater Noida was an unclassified town for the purpose of grant of House Rent Allowance. Consequent upon the implementation of recommendations of the 6th Central Pay Commission, it was classified as 'Z' town w.e.f. 01.09.2009 for grant of House Rent Allowance to the Central Government employees. The respondents continued to pay House Rent Allowance to the applicants working in CGHS Wellness Centre Greater Noida @ 30%. When the fact of excess payment was brought to their notice during the course of

inspection by the audit, the same was recovered from the concerned officials from their salaries w.e.f. March, 2013 to May, 2013.

8. Emphasis of the applicants' argument is that the CGHS Wellness Centre Greater Noida is an integral part of CGHS (East Zone), Delhi. They submit that all the other doctors posted in Eastern Zone, Delhi are being granted House Rent Allowance @30%, hence the applicants, who were only "temporarily deployed" to Greater Noida and who are otherwise under the overall administrative control of CGHS (Eastern Zone), Delhi are being discriminated against. While the other doctors are getting House Rent Allowance @30%, the applicants are being paid reduced House Rent Allowance @10%. In the rejoinder, the applicants state that Noida and Greater Noida emerged due to a concept of NCR in 1980. Otherwise both are similarly situated and similarly circumstanced in the same district, with there not being much difference in population. In the census of 2011 Noida had a population of 6,42,381 (Noida) and Greater Noida had a population of 1,07,676. Hence, the decrease in HRA to the employees of Greater Noise vis a vis those working in Noida is arbitrary and unfair.

9. The O.M. No. 2(8)/2012-E.II(B) dated 06.08.2013, issued on admissibility of HRA for Central Government employees posted at Greater Noida, clarifies that:-

“It has been observed that pay of HRA @30% of Basic Pay is being made by certain Ministries/Departments to the Central Government employees posted at Greater Noida in violation of the instructions issued by this Ministry in this regard from time to time

2. It is therefore clarified that Greater Noida was an Unclassified town place for the purpose of grant of HRA prior to 01.09.2008 and consequent upon the implementation of the recommendations of the 6th Central Pay Commission, it has been classified as 'Z' class town/place w.e.f. 01.09.2008 vide this Ministry's O.M. No. 2(13)/2008-E.II(B) dated 29.08.2008 on grant of House Rent Allowance to the Central Government employees and classification of cities/towns for this purpose.

3. Financial Advisers of All Ministries/Departments are, therefore, requested to ensure the implementation of the aforesaid O.M. in letter & spirit.

Sd/-
(Anil Sharma)
Under Secretary to the Government of India"

In O.M. No. 2(13)/2008-E.II(B) dated 29.08.2008, it has been clarified that the earlier classification of cities had been revised as 'X', 'Y' and 'Z'. In determining the revised classification, the population of Urban Agglomeration area of the city has been taken into consideration. Accordingly, the rates of House Rent Allowance have been fixed as under:-

Classification of Cities/Towns	Rate of House Rent Allowance as a percentage of (Basic pay + NPA where applicable)
X	30%

Y	20%
Z	10%

The pari material regarding population of Urban Agglomeration area has been duly considered by Ministry of Finance, Department of Expenditure while classifying the cities for grant of House Rent Allowance.

10. In their counter, the respondents state that the place of posting of the applicants is Greater Noida Wellness Centre, where the applicants have been marking their attendance biometrically. In my understanding, the applicants have to be given HRA of the place where they are posted. They cannot claim House Rent Allowance @30% as applicable to Delhi Region merely on the ground that they were/are under the Administrative Control of CGHS (East Zone), Delhi. There does not appear sufficient ground to interfere in the well researched and thought out discrimination brought out in O.M. dated 06.08.2013 vide which the categorization of different cities/towns has been done by the Government.

11. In view of the aforesaid facts and discussions, the O.A. is dismissed as being devoid of merit. No costs.

(Praveen Mahajan)
Member (A)

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