

**CENTRAL ADMINISTRATIVE TRIBUNAL  
HYDERABAD BENCH AT HYDERABAD**

**OA/21/1057/2012**

**Date of Order: 27.08.2018**

Between:

Ch. Prabhakararao,  
S/o. Sri Ramanaiah,  
Aged about 50 years,  
Occ: Junior Engineer (Civil),  
National Institute of Rural Development,  
Rajendranagar,  
Hyderabad – 500 030.

... Applicant

AND

1. Union of India rep. by  
The Chairman,  
Executive Council,  
National Institute of Rural Development and  
Hon'ble Union Minister for Rural Development,  
Krishibhavan,  
New Delhi – 110 001.
2. The Director-General,  
National Institute of Rural Development,  
Rajendranagar,  
Hyderabad – 500 030.
3. The Registrar,  
National Institute of Rural Development,  
Rajendranagar,  
Hyderabad – 500 030.
4. The Asst. Registrar (Estt.),  
National Institute of Rural Development,  
Rajendranagar,  
Hyderabad – 500 030.
5. The Asst. Financial Advisor and  
Pay & Accounts Officer,  
National Institute of Rural Development,  
Rajendranagar,  
Hyderabad – 500 030.

.....Respondents

Counsel for the Applicant : Mr. K. Siva Reddy  
Counsel for the Respondent : Mrs. K. Rajitha, Sr. CGSC

CORAM :

THE HON'BLE MR.JUSTICE R.KANTHA RAO, JUDL. MEMBER  
THE HON'BLE MRS. NAINI JAYASEELAN,ADMN. MEMBER

### **ORAL ORDER**

{ Per Hon'ble Mr. Justice R. Kantha Rao, Judl. Member }

Heard Shri K. Siva Reddy, learned counsel appearing for the Applicant and Shri Laxman, learned proxy counsel for the Respondents.

2. The brief averments in the O.A. are as follows:

The Applicant was appointed as Junior Civil Engineer (Civil) in a regular sanctioned post on contract basis in the National Institute of Rural Development, for short NIRD on 13.11.1997. As per the terms of the contract of appointment, initially he will continue in the said post for a period of five years and the further continuance is subject to the regularization by the competent authority. As per the Office Order No.490 dated 26.12.1997, the contract appointment is continuable for a period of five years and is further subject to the terms stipulated in the offer of appointment dated 3.10.1997 and the contract agreement dated 13.11.1997 which was accepted by the applicant at the time of accepting the job.

3. The Applicant was issued with a charge memorandum dated 16.12.2003 under Rule 14 of CCS (CCA) Rules alleging that he is staying outside the Campus and in spite of the instructions of the department, he is

not shifting to the Campus to reside in the residential quarter. The Applicant submitted an explanation to the charge memorandum stating that he is entitled to continue in a private accommodation. The department did not accept the explanation and initiated disciplinary proceedings by appointing an Inquiry Officer. The Inquiry Officer conducted the inquiry, completed the same and submitted the inquiry report to the disciplinary authority. The disciplinary authority communicated the inquiry report to the Applicant on 21.4.2006. The Applicant submitted his explanation on 7.6.2006 but no final orders were passed. He made representations dated 16.11.2006 & 21.12.2011 to the disciplinary authority to pass orders on the inquiry report. The representations of the Applicant were rejected by order dated 27.4.2012 which is as follows:

“This has reference to representations cited above received from Shri Ch. Prabhakar Rao, Junior Engineer (Civil). The issue has been examined with the approval of competent authority. In this regard, he is informed that an inquiry was initiated against Shri Prabhakar Rao vide Memorandum of even No.dt.16.12.2003 for his failure to stay in NIRD Campus, as required under **Clause iii** of his offer of contract appointment No.Admn.B/B5/1996/ 160 dated 3.10.1997 and Office Order No.118 dt. 8.5.2003. The Inquiry Officer vide his inquiry report dt. 15.2.2006 has held the charges as **Proved**.

2. Keeping in view of the above, he is informed that his request for payment of HRA cannot be considered. No further representation on this issue will be entertained.”

4. From the above order it is obvious that on the mere ground that the Inquiry Officer held that the charges were proved against the Applicant, his request for passing final order in the inquiry has been rejected.

5. The main contention of the Respondents as can be seen from their

reply statement is that as per the guidelines for accommodation to NIRD employees, the employees who have built houses taking House Building Advance from NIRD could be allowed to vacate the campus accommodation subject to the condition that HRA will become admissible to such employees only from the date of the quarters thus vacated get occupied. They relied on Office Order dated 13.7.2004 which is to the effect that the Applicant is directed to occupy the official quarter immediately and that the license fee as stated would be calculated from the date of occupation of the quarter or from the 7<sup>th</sup> day of the issue of the order whichever is earlier. They also referred to the contract of appointment dated 3.10.1997 according to which the Applicant, who is a Junior Civil Engineer is required to stay in the Campus and he will be allotted accommodation of the eligible type in the Institute's Campus subject to availability on payment of rent, water and electrical charges. Thus, according to the Respondents, as per the guidelines issued to the employees, other than the employees who constructed their own house by obtaining house building advance from the department, have to necessarily stay in the official quarters allotted to them and HRA will not be paid to them if they stay outside in violation of the guideline.

6. When the Respondents sought to terminate the services of the Applicant, after completion of five years period, the Applicant filed Writ Petition No. 22491/2002 before the Hon'ble High Court at Hyderabad and obtained an interim order to continue him in service. The main Writ Petition is filed seeking regularization of the services of the Applicant. After passing of the interim order, the Hon'ble High Court at Hyderabad

transferred the matter to the Tribunal and thereafter it was numbered as T.A. No.47/2012. The said T.A. was allowed by the Tribunal by order dated 9.7.2012 directing the Respondents to regularize the services of the Applicant. Feeling aggrieved the Respondents filed W.P. No.26958/2012 before the Hon'ble High Court at Hyderabad and Hon'ble High Court in the said Writ Petition passed an interim order staying the order passed by the Tribunal to the extent of regularising the services of the Applicant. The said Writ Petition is still pending.

7. The contention of the Respondents is that since the Writ Petition is pending before the Hon'ble High Court and an interim order was passed suspending the order passed by the Tribunal and also in view of the guidelines issued to the employees and the undertaking given by the Applicant in the contract of appointment since he is staying outside the Campus he is not entitled for H.R.A. and T.A.

8. On the other hand it is the specific contention of the Applicant in the O.A. that on the aforementioned objection set forth by the Respondents they cannot keep quiet without passing final orders in the disciplinary inquiry even after receiving the representation submitted by the Applicant to the inquiry report of the Inquiry Officer.

9. Learned counsel appearing for the Applicant relied on an order passed by the Central Administrative Tribunal in O.A. No.2183/2010 where under similar circumstances the Principal Bench of the Tribunal held that 'refusal to occupy the residential quarters which was earmarked to an employee does not amount to misconduct.' However, in the instant case,

since the final order is not passed in the disciplinary inquiry, we are not inclined to go into the question whether the conduct of the Applicant amounts to misconduct.

10. We are on the point whether the Applicant is entitled for the reliefs prayed for in the O.A. on account of the Respondents' inaction in passing the penalty order for a period of 12 years even after receiving the inquiry report.

11. Learned counsel for the Applicant invited our attention to the Government of India Order under Rule 15 sub Rule 8 of CCS (CCA) Rules to the effect that the disciplinary authority should pass final orders on the report of the Inquiry Officer within a period of three months. The same order is reiterated in the subsequent Government of India orders issued in this regard. Even as per the law laid down by the Hon'ble Supreme Court in a catena of decisions , the inquiry should be completed and final order has to be passed within a reasonable time and the inquiry shall not be kept pending for a period of more than one year.

12. In the instant case, the disciplinary authority did not pass final order for a period of 12 years. The subject matter of the inquiry before the Inquiry Officer as well as the issue involved in the present case is one and the same. Therefore, we are of the considered opinion that on account of failure on the part of the disciplinary authority to pass final order on the very same issue involved in the present case, the Applicant is entitled for the relief prayed for in the present O.A. Consequently, the O.A. is allowed. The Respondents are directed to pay the H.R.A. & T.A. for which the

Applicant is entitled for under the Rules, together with the amounts withheld/ recovered under these two heads from the pay and allowances of the Applicant, within a period of two months from the date of receipt of a copy of the order.

13. The O.A. is allowed to the extent indicated above. No order as to costs.

**(NAINI JAYASEELAN)  
ADMN. MEMBER**

**(JUSTICE R. KANTHA RAO)  
JUDL. MEMBER**

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