

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH

No. OA 350/01666/2014

Present: Hon'ble Ms. Bidisha Banerjee, Judicial Member

TAPAN KR. ROY

VS

UNION OF INDIA & ORS.

For the applicant : Mr.C.Sinha, counsel

For the respondents : Mr.B.L.Gangopadhyay, counsel

Order on: 31.8.16.

O R D E R

This matter is taken up in the Single Bench in terms of Appendix VIII of Rule 154 of CAT Rules of Practice, as no complicated question of law is involved, and with the consent of both sides.

2. Ld. Counsels for the parties were heard and materials on record were perused.

3. The applicant is aggrieved as the respondents have denied him payments towards HRA from September 2005 to 13.5.13 i.e. his date of retirement, on the ground that he was allotted a Type-IV quarter against his entitlement of Type-V quarter on 13.6.05.

4. Ld. Counsel for the applicant vociferously submitted that the quarter being lower than the entitlement, the applicant had never occupied the said quarter and being in a dilapidated condition the quarter itself was declared abandoned in 2009 and demolished. Ld. Counsel would then invite my attention to Annexure A/7 to the OA, a communication dated 30.1.14 by the DPO for DRM(P)/KIR which reads as under :

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"Sub : Pleader Notice dated 10.7.2013 for your client Dr. Tapan Kumar Roy, 72, Balaidas Chatterjee Road, Hakim Para, Siliguri.

Dear Madam,

Dr. T.K. Roy, Ex. CDS/NJP was drawing HRA since 1996 and stopped drawl of HRA w.e.f. 1.9.05. the same HRA had been stopped as Bungalow No. 359/8 (Type-IV) at Central Colony/NJP was allotted in favour of him. But the same had not been occupied by Dr. Roy as he had not been allotted Type-V Bungalow as per his entitlement.

*As per Railway Board's guidelines, "in case at any pint of time it transpires that some accommodation is likely to retain vacant/unoccupied due to lack of demand, it should be made compulsory to submit applications for **such** types where there is surplus accommodation, and consequently the employees entitled for **such** types would not be eligible to draw house rent allowance."*

He would submit that the provisions quoted in the communication and as indicated in para 6 of the reply as RBE 176/10 would not apply to the present fact situation as the applicant was not entitled to Type-IV quarter but denied HRA on the ground that Type-IV quarter was surplus. He alleged that the respondents have misapplied the provisions in the present case and therefore the applicant who was never in occupation of the quarter in question should be allowed HRA from the date the same was stopped.

5. Per contra, Id. Counsel for the respondents, dispelling the claim of the applicant, would argue that since surplus Type-IV quarters were available, despite being entitled to Type-V quarter, the applicant was bound to occupy Type IV quarter i.e. lower than his entitlement. But in support he failed to bring on record any rule or provision. Therefore it would be wrong to say or suggest that the applicant was bound to occupy quarter lower than his entitlement.

6. Having heard the Id. Counsels and considering the materials on record as well as the extant provisions under Railway rules, I am of the considered opinion that admittedly Type-IV bungalows being surplus but no Type-V bungalow being available, RBE 176/10 would not apply to the present applicant whose entitlement was Type-V and not Type-IV. The provisions were misapplied to his case.

7. In such view of the matter I would dispose of the OA with a direction upon the authorities to consider the claim of the applicant for payment of the

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HRA for the period September 2005 till his retirement when he was neither in occupation of the quarter as per his entitlement, nor offered any quarter on par with his entitlements and could not be compelled to occupy any quarter lower than his entitlement. If nothing stood in the way the respondents would release the benefits within two months from the date of communication of this order towards payment of HRA from September 2005 till the retirement of the present applicant.

8. No order is passed as to costs.

(BIDISHA BANERJEE)

MEMBER (J)

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