

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH



No. OA 350/01717/2015

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

PRAKASH KUMAR KUNDU & ORS.

VS

UNION OF INDIA & ORS.

For the applicants : Mr.P.C.Das, counsel
Ms.T.Maity, counsel

For the respondents : Mr.P.Mukherjee, counsel
Mr.M.K.Ghara, counsel

Order on : 5.5.16.

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. The applicants 09 (nine) in numbers serving at Rifle Factory, Ishapore are aggrieved as they have been denied HRA disregarding the order passed by the Tribunal affirmed by the Hon'ble High Court and Apex Court. They have sought for the benefit of the orders passed by this Tribunal in OA 1183/10 dated 18.11.10, WPCT 111/11 rendered on 17.5.11 and recent orders of the Tribunal in OA 875/12 dated 14.8.13 affirmed by the Hon'ble High Court in WPCT 470/13 in UOI -vs- Apu Singh.

3. The respondents have categorically denied the claim on the ground that order passed in Apu Singh related to those categories of employees who occupied Govt. accommodation on their appointment, vacated the quarters after arranging their own accommodation and subsequently claimed HRA from the date of vacation of Govt. quarter. On the contrary the present applicants had never occupied Government accommodation since their joining on transfer to the Factory and so they were not entitled to benefits of the decision rendered

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in OA 1183/10, OA 875/12, etc. According to the respondents, the employees of Ordnance Factory who did not apply for Government accommodation, would not be entitled to HRA and Government accommodation if allotted and not taken possession of will also entitle forfeiture of HRA, even if a single accommodation of a particular type was vacant and no one was entitled to such accommodation. Further it is not payable if an employee voluntarily surrenders it.

4. The Id. Counsels for the parties were heard at length.

5. Since payment of HRA was denied on the ground that the case of the applicants did not fall within the four corners of orders passed by this Tribunal in earlier OAs the orders passed in the said OA require to be adverted to. The operative portion of the order referred to by Id. Counsel for the applicants would demonstrate that the order was passed also in favour of the applicant in OA 873/12 who was never in requirement of a quarter and Apu Singh, who was granted HRA but from a subsequent date long after he surrendered his quarter. Therefore the respondents have misdirected themselves in denying HRA to the applicant on the ground that this case did not fall under the category the order passed in OA 872/12 governs. Since the position is otherwise it appears that the respondents had misread the order and denied the claim on a wrong premise. That apart the direction in WPCT 470/13 was always binding upon the respondents. Hon'ble High Court held as under :

"According to the learned counsel, this exercise was, in fact, conducted in August, 2012 and, therefore, the Tribunal was not right in directing any further exercise to be conducted for ascertaining whether accommodation, though vacant, was not offered to other employees in compliance with para 4(b) or 5 of the Office Memorandum, dated 14th November, 2007.

There is no material before us to indicate that this procedure was undertaken after the impugned order was passed. There is also no material on record to show that it was mandatory for the employees to live in the Government quarters. The appointment letters of these employees have been produced for our perusal and in none of these appointment letters does it appear that the employees are compulsorily required to occupy Government accommodation.

In our view, the Tribunal has not committed any error of law much less an error of law apparent on the face of the record by issuing the aforesaid directions. In fact, it has proceeded on the basis that its earlier decision had been upheld by the High Court and the later by the Supreme Court. The Tribunal was of the view that despite the quarters being surrendered, there was no material to show that the quarters were,

in fact, offered to other employees and it is in these circumstances, it has passed the aforesaid directions.

We are surprised that the petitioners did not care to implement the earlier order of the Tribunal as upheld up to the Supreme Court in respect of all employees and instead, required each employee to approach the Tribunal before securing House Rent Allowance. It is well settled that every employee need not rush to the Court for redressal of the same claim, as is ranted to other employees, similarly situated, by Courts. It is expected that the employer implements the decision of the Court in respect of all employees and not just those who have the wherewithal to approach the Court. In the case of State of Karnataka & Ors. -vs- C.Lalitha [(2006) 2 SCC 747], the Supreme Court has observed that it is not necessary for each individual to approach the Court when one person similarly situated has been granted the relief by the Court. The employer is expected to apply the same logic in respect of all other employees to grant them relief. This would apply with greater force when Government is the employer as it is supposedly a model employer.

In our opinion, the impugned order is correct and in consonance with the decision of the Division Bench of this Court in WPCT No. 111 of 2011, which has been confirmed by the Supreme Court. The criticism of the learned counsel for the petitioners against the order is unfounded and baseless. We see no reason to interfere with the order.

The writ petitions are dismissed with no order as to costs."

6. Accordingly the OA is disposed of with a direction upon the respondents to examine the claim of each and every applicant in the light of the cited decision supra and grant appropriate reliefs in accordance with the said decisions.
7. Let orders be issued within three months from the date of receipt of the copy of this order.
8. No order is passed as to costs.

(BIDISHA BANERJEE)
MEMBER (J)

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