



CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH

No. OA 390 of 2012

Present: Hon'ble Ms. Bidisha Banerjee, Judicial Member
Hon'ble Mr. Uday Kumar Varma, Administrative Member

DR. BADAL CHAKRABORTY

VS

UNION OF INDIA & ORS.

For the applicant : Mr.A.Chakraborty, counsel

For the respondents : Mr.P.K.Roy, counsel

Order on : 31.08.2016

O R D E R

Mr. Uday Kumar Varma, A.M.

The present application is filed seeking the following reliefs :

- a) An order do issue directing the respondents to grant HRA in favour of the applicant w.e.f. 2.9.09 as he is residing in a rented house.
- b) An order do issue directing the respondents to grant interest on the arrears of the House Rent Allowance.

2. The facts of the case in a nutshell are as follows :

The applicant is working as Sr. DDS at Chittaranjan Locomotive Works (CLW in short), Chittaranjan. He is residing in a rented house which is not more than 2.5 Kms. from his working place. Previously the applicant was drawing HRA from December 2006 to June 2008. In July 2008 he was allotted a Railway quarter but he surrendered the said Railway quarter on 1.9.09.

On 18.2.11 the applicant made a representation to the Chief Personnel Officer, CLW that he applied for House Rent Allowance on 2.9.09 but he got no response. Through RTI Act, 2005 he sought for information regarding the status of his prayer for sanction of HRA and he was informed that HRA was not sanctioned. The applicant requested the Chief Personnel Officer to provide him necessary information within reasonable time as to why HRA has not been sanctioned in his favour. On 3.5.11 the applicant was informed that his

request for grant of HRA was not exceeded by the competent authority in the light of Railway Board's letter dated 29.7.99.

The Railway Board circular provides that a Railway employee who is eligible for Railway accommodation or who is not submitting application for such accommodation or who after submitting application for such accommodation refuses to accept accommodation when offered; or who after having accepted such accommodation surrendered it, may be paid House Rent Allowance if otherwise advisable or fulfilment of prescribed conditions. It further provides that such concession is however, not admissible to employees when the Railway accommodation is specifically earmarked for the Railway employees, whose occupation of Railway quarters is essential for any accessibility during emergencies, efficient discharge of their duties etc.

The prayer of the applicant for sanction of HRA was rejected on the ground that the Railway accommodation is specifically earmarked for the applicant.

The applicant made a representation before the authority concerned stating that he is residing within 2.5 Kms. of his working place. On 11.10.11 the applicant further made a representation before the General Manager, CLW, Chittaranjan stating that there is no earmarked quarter for Sr. DDS. The authority concerned rejected his prayer for HRA w.e.f. 2.9.09.

Hence the present application is filed.

3. The respondents in their reply have stated that the applicant was granted HRA from December 2006 to June 2008. But as soon as the Railway quarter was allotted to him, HRA was discontinued. The respondents have further stated that the service of a doctor is called for during emergencies beyond their normal duty hours and keeping in view the emergency services CLW administration allotted a Railway quarter in favour of the applicant within the Railway premises from where it would be easily accessible to Railway Hospital during emergencies. But the applicant surrendered the said accommodation on 1.9.09 and started residing outside the Railway's protected township and prayed for HRA.

The respondents further submitted that the prayer of the applicant for granting HRA was considered but the prayer could not be acceded to in terms of Railway Board's circular Sl. No. 133/99 dated 7.7.99. Another cogent reason for not granting HRA was that the applicant surrendered the Railway quarter and started to reside outside the CLW's township from where it is not easy to access during emergency specially at night.

According to the respondents the applicant made misconceived interpretation of the Railway Board's circular dated 7.7.99. The concession is not given in the instant case where quarter was allotted within the protected area to the staff whose service is essentially required during emergencies. As such the respondent authorities have rightly rejected the prayer of the applicant for granting HRA.

4. We have given a thoughtful consideration to the whole matter and perused the records in this case and carefully heard the Id. Counsels for the applicant and respondents.

5. The issue for adjudication is whether the respondents have committed any error or illegality in discontinuing the HRA of the applicant w.e.f. 2.9.09 on account of the fact that despite a house earmarked for him and being allotted to him, he surrendered the same and decided to stay in a private accommodation which was of course 2.5 Kms. away from his working place. The basis for the action of the respondents in doing so is the provisions of the Railway Board's circular 133/99 dated 29.7.99 which prescribes that a Government servant for whose accommodation is earmarked, has to stay in that accommodation and if he does not do so, he will be disentitled from claiming HRA. It has to be noticed that the applicant has not challenged this Railway Board's letter.


6. We have gone through the letter of the Railway Board particularly with respect to the provision aforementioned. This provision is unambiguous and clear. It is the contention of the respondents that the said house was earmarked for the applicant who is a doctor and is also working as a medical officer. They have further contended that his services are of essential nature

and is required at any time of the day and night and therefore his staying in the campus in the earmarked house is essential for proper discharge of his official functions and for proper care of the patients visiting/admitted in the hospital.

The applicant has not challenged this contention. The only argument he has advanced is that in his perception the house is not earmarked but he has not specifically contradicted this contention of the respondents.

7. Given the fact that the Railway Board's circular 133/99 dated 29.7.99 is not under challenge and that the respondents have only followed the instructions contained in this letter, we find no illegality or irregularity in respondents' decision to discontinue HRA of the applicant w.e.f. 2.9.09.

8. The OA is accordingly found bereft of merit and is thus dismissed. There shall be no costs to either parties.


(UDAY KUMARVARMA)
MEMBER (A)


(BIDISHA BANERJEE)
MEMBER (J)

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