

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH: HYDERABAD**

Original Application No. 21/202/2017

Reserved on: 31.01.2019

Pronounced on: 01.02.2019

Between:

T. Ravindernath, S/o. T. Kistaiah,
Aged about 52 years, Occ: Primary Teacher,
Kendriya Vidyalaya-1, Air Force Academy,
Dundigal, Hyderabad – 500 043.

... Applicant

And

1. Union of India, Rep. by the Commissioner,
Kendriya Vidyalaya Sangathan,
18, Institutional Area, Shaheed Jeet Singh Marg,
New Delhi – 110 016.
2. Hon'ble Deputy Commissioner,
Kendriya Vidyalaya Sangathan,
Regional Office, Hyderabad,
PICKET, Sec'bad.
3. The Principal,
Kendriya Vidyalaya-1, Air Force Academy,
Hyderabad – 500 043.

... Respondents

Counsel for the Applicant	...	Dr. A. Raghu Kumar
Counsel for the Respondents	...	Mr. M.C.Jacob, Advocate for Mr. B.N. Sharma, SC for KVS

CORAM:

<i>Hon'ble Mr. B.V. Sudhakar</i>	...	<i>Member (Admn.)</i>
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ORDER

{As per Hon'ble Mr. B.V. Sudhakar, Member (Admn.) }

2. Applicant aggrieved over allotment of uninhabitable quarters and thereby,
being denied HRA has filed the OA challenging the relevant orders of allotment
of quarters.

3. Applicant is working as a Primary Teacher in the 3rd respondent organisation from 2.5.2009. He was allotted staff quarter No.25 (Type-II) in the KV No.1 Staff Quarters at AFA, Dundigal vide order dt. 02.05.2009, in which he stayed for 5 months and finding it uninhabitable decided to vacate the quarters. Respondents enquired about the reasons, which the applicant gave vide his representation dated 11.11.2009. Respondents accepted the representation. Applicant vacated the quarter and HRA was released. Subsequently, quarter No.3 (Type-III) was allotted on 21.11.2016 with the condition that if the applicant did not accept the allotment it will be cancelled and he will not be allotted a quarter for an year. Albeit applicant did not occupy the quarter, HRA was not drawn forcing him to make a representation dt. 17.1.2016 stating that quarter allotted was old which requires to be certified as fit to occupy. Till the issue of the certificate, request was made not to deduct HRA but it was rejected on the ground that the same quarter was previously occupied by Smt. Sanjana Roy, ex PRT. The applicant in response vide his lr dt 2.2.2017 represented that the said quarter was allotted to Smt. Sanjana Roy on request and she stayed on her own risk despite there being snakes, wild bores, wild bushes, seepage issues etc inhibiting anyone to stay in such a quarter. Even this representation was rejected without giving valid reasons. The applicant produced photographs to convince the respondents about the inhabitability of the quarter but of no avail. Left with no option, the OA had to be filed.

4. The applicant claims that he cannot be forced to stay in a quarter which is life threatening. He has submitted visual evidence to this effect. With the area being infested with snakes, wild bores, inadequate lighting, poor maintenance of the allotted quarter etc it was difficult to stay in such a quarter. HRA can be

stopped only if the applicant were to be allotted a quarter which is habitable and if he refused to occupy such a quarter.

5. Respondents state that when the applicant represented that he will vacate Quarter No.25 on 30.11.2009, as he claimed it to be uninhabitable, his HRA was withheld. However, the same was paid from July 2010 onwards. Thereafter, applicant was allotted another quarter bearing No.9 on 31.10.2012. The applicant did not occupy the quarter and therefore HRA was not paid from 31.10.2012 to 1.4.2015. This aspect the applicant has not brought out in the OA. One another Type III quarter which fell vacant was allotted on 21.11.2016 which the applicant accepted. Nevertheless, applicant once again represented that the quarter is not habitable and therefore did not occupy making a request that HRA should not be deducted. Respondents cited that as per rule 11 of KVS (Allotment of Residence) Rules, 1998 if an employee does not occupy an allotted quarter within 8 days he shall be ineligible for allotment of quarter for one year. Such an employee will not be eligible for drawal of HRA till the allotted quarter remains vacant/surplus. Once allotment is made HRA will not be drawn even if the applicant does not stay. Respondents claim that earlier Mrs. Sanjana Roy stayed in the same quarter without any difficulty and that many teachers are staying in the same block. Besides, army is maintaining the quarters. The applicant has not been forced to stay in the quarter but whether he stays or not HRA shall be forfeited as quarter, in lieu of HRA, has been allotted. With the joining of new teachers the applicant was allowed to surrender the quarter and the same was allotted to another teacher on 26.10.2017. Therefore the applicant is eligible for drawal of HRA only from 26.10.2017. Photos submitted to the Tribunal were not submitted to the respondents is one another submission of the respondents. The quarter is in the defence zone and hence it is the most secured place for living.

6. Heard Dr. A. Raghu Kumar learned counsel for the applicant and Sri M.C. Jacob, learned counsel representing Mr.B.N. Sharma, learned Standing Counsel for the respondents. Perused the documents submitted.

7(I) Applicant was first allotted quarter No.25 which he vacated in 5 months as he found that it is uninhabitable. Applicant decided to vacate the quarter on 30.11.2009, giving reasons as to why he wants to vacate. The applicant did submit photographs wherein we can see snake pits, wild grass, open man holes, wall seepages, cracks in the wall, exposed cable wires etc. It was incumbent on part of the respondents to attend to the maintenance works. After taking up the repairs particularly in the quarter allotted, if the applicant were not to stay then the applicant's HRA could have been withheld. However, without doing so withholding of HRA is unfair. However, the respondents accepted the representation dt 11.11.2009 and started paying HRA only from October 2010. This would mean that the respondents have conceded the fact that the quarter was uninhabitable. If so it is not understood as to why it was not paid from the date of vacation of the quarter till the date of payment of HRA recommenced. Later respondents allotted quarter No. 9 on 31.10.2012. The applicant did not occupy the quarter and therefore HRA was not paid from 31.10.2012 to 1.4.2015. Applicant did not state this fact in the OA is the strong contention of the respondents. Such non submission has to be construed that the quarter allotted was good and since he did not occupy the applicant reconciled to the fact that he is not eligible for HRA. Otherwise, there is no reason as to why he would not represent against allotment of quarter No. 9 when he has done so in the past. Now coming to the allotment of quarter No. 3 on 21.11.2016, the applicant has accepted the allotment but later declined since he found it to be uninhabitable. Being apprehensive of the quality of the quarter he has asked for a

fitness certificate. Usually in such circumstances, the engineering wing certifies as to whether building/quarter is fit for staying. Instead, the respondents themselves decided that it is habitable. They are not experts to state so. If an untoward incident were to happen involving loss of life, then it would be an irreparable loss. Therefore when there is a specific objection in regard to the fitness of the quarter the respondents should have called the engineering wing to examine and certify. Thereafter, if found fit then the applicant would have had no say. Such a step was not taken by the respondents which, in a way, is arbitrary. The only line of defence taken by the respondents is that others are staying and therefore, there is no reason as to why the applicant cannot stay. The others have not objected and are staying on their own volition for reasons best known to them. This does not mean that the respondents can arbitrarily decide that it is fit though they are not competent to do so. It is only the engineering wing which has the authority to issue a fitness certificate. The photographs submitted does present a picture that there is much to be done in regard to maintenance.

II. Being on the subject, it is not out of place to state that teaching is the most revered profession. Teachers mould the society by parting quality education and decide the future of the country. The minimum that we can give back to them is a good place to live. If we do not provide even a proper abode to live then it would impair the quality of education being imparted. The reason is that the teacher is burdened with the worry of not being provided a decent place to live. That is a continuous distraction. Adding salt to injury is the recovery of HRA by allotting an uninhabitable abode. In a way, we are disrespecting the teaching community by not properly taking care of them. Many are silent but some do express. It is a signal for those responsible to respond to the signal so

that the teaching community as a whole gains which indeed is good for the society. The entire episode has to be viewed in this context.

III. Reverting to the issue, without getting the fitness check done, compelling the applicant to occupy the quarter is unreasonable to say the least. However, when the new teachers joined and the quarter was allotted to someone else, saga of the applicant to get the HRA drawn ended on 26.10.2017. To be precise, HRA can be withheld if the quarter allotted is habitable. In fact, the applicant had no grouse when he was not paid HRA for the period 31.10.2012 to 1.4.2015 since it appears that quarter allotted was habitable. However, the applicant had issues in regard to quarter No. 25 and quarter No.3. He did present valid grounds for non occupation as expounded above. Even as per Rule 11 of KVS (Allotment of Residence) Rules, 1998, if an employee does not occupy an allotted quarter within 8 days the allotment stands cancelled and that he shall be ineligible for allotment of quarter for one year. It is not explained by the respondents as to why they did not implement this measure instead of compelling the applicant to occupy the quarter. May be, there would be surplus quarters and hence, the respondents would have allotted. However, having allotted they cannot shirk the responsibility of providing a quarter which is demonstrably habitable, more so, when the grievance was in black and white. They should have undertaken the repairs pointed out and called the engineering wing to do a fitness check. Having failed to provide habitable quarters the respondents should have gracefully released the HRA due. As it was not done, considering the facts narrated above, the respondents are hereby directed to consider as under:

- a) Release HRA from the date of vacation of quarter No.25 (Type II) till HRA was again paid from October 2010;
- b) Pay HRA for the period from 21.11.2016 to 26.10.2017, during which period Quarter No.3 (Type III) was allotted but could not be occupied.
- c) Time allowed is 3 months from date of receipt of this order.
- d) OA is thus allowed with the above directions.
- e) There shall be no order as to costs.

(B.V. SUDHAKAR)
MEMBER (ADMN.)

Dated, the 1st day of February, 2019

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