

**Central Administrative Tribunal  
Principal Bench**

OA No.1376/2016  
MA No.3018/2018

Orders Reserved on 24.05.2019

Pronounced on: 29.05.2019

***Hon'ble Mr. Pradeep Kumar, Member (A)***

Suresh Kumar,  
Aged about 49 years  
S/o Shri Chander Singh,  
R/o Ward No.5,  
Village & Post Kanina,  
Distt. Mahender Garh,  
Haryana-123027.

-Applicant

(By Advocate: Shri Ram Kanwar)

**-Versus-**

1. Directorate of Printing  
through Director/Secretary,  
'B' Wing, Nirman Bhawan,  
Maulana Azad Road,  
New Delhi-110108.
2. Government of India Press,  
NIT Faridabad-121001,  
Through Officer-Incharge.

-Respondents

(By Advocate: Shri R.K. Sharma)

**O R D E R**

1. The applicant is 100% visually challenged employee who was appointed as Canner in Government Press, Faridabad in the year 1990. He was allotted a Government quarter No.235 in Old Press Colony, Faridabad. This quarter is being

maintained by CPWD and electrical connection is provided by Dakshin Haryana Bijli Vitran Nigam Ltd. (DHBVNL).

2. The applicant claims that he had vacated this quarter in July, 1994 and advised DHBVNL to remove the electrical meter etc. Since this was not removed and electrical charges were still being deducted from him, he filed a Civil Suit No.402 on 21.03.2009 in the Court of Civil Judge (Junior Division) Faridabad. This was decided on 26.02.2011. The order reads as under:

“15. As a sequel to my findings on the above issues, the suit of the plaintiff is decreed with a direction to the defendants to remove the electric meter bearing A/c no. 16-DSH-711/235 from quarter no. H-235, Press Colony, NIT Faridabad and to refund the security amount to the plaintiff after deducting therefrom the consumption charges till the billing cycle next following which includes the consumption charges upto 16.7.1994 i.e. the date on which the plaintiff vacated and surrendered the said premises. The balance security deposit found due to the plaintiff after deduction as aforesaid be refunded to the plaintiff within a period of 2 months from the date of receipt of a certified copy of this judgment. Decree sheet be drawn accordingly and file after due compliance be consigned to the record room.”

Thereafter the DHBVNL issued No Objection Certificate (NOC) on 23.06.2015.

3. Thereafter, the CPWD gave him NOC indicating that the said quarter was vacated on 07.09.2015 and No Accommodation Certificate (NAC) shall be issued only after

one year as per the extant instructions in force, i.e., w.e.f. 06.09.2016.

4. The applicant pleads that even though he vacated the quarter in July, 1994, he was not paid House Rent Allowance (HRA) and instead licence fee for this quarter was deducted from his monthly salary.

The applicant also pleads that during this time 5<sup>th</sup> Central Pay Commission recommendations in respect of allowances came into force w.e.f. August, 1997 wherein the rate of HRA was increased. Similar increase took place in said allowance as per 6<sup>th</sup> Central Pay Commission w.e.f. September, 2008 and as per 7<sup>th</sup> Central Pay Commission w.e.f. July, 2017. Since allowances were enhanced, applicant has been put to loss at these increased rates.

5. The applicant also pleaded that during the pendency of this OA, HRA has since been paid to him w.e.f. 01.01.2018 and thus he seeks relief for payment of HRA for the period July, 1994 to 31.12.2017, refund of licence fee deducted from his salary during this period and payment of interest on the amount denied to him.

6. The applicant had also filed MA No.3018/2018 to place on record the payable rate of HRA during this time and the details in respect of licence fee deducted. This MA is allowed.

7. The respondents opposed the OA. It was pleaded that the quarter was actually vacated on 07.09.2015 and as per memorandum dated 17.05.2006, an employee has to wait for one year for issue of NAC and it is only thereafter that payment of HRA can be considered. In this connection the respondents drew attention to a letter issued to the applicant on 23.09.2015, which reads as under:

“श्री सुरेश कुमार, केनर के प्रार्थना पत्र दिनांक 15/09/2015 के संदर्भ में उन्हें यह सूचित किया जाता है कि मुद्रण निदेशालय, नई दिल्ली के कार्यालय जापन दिनांक 17/05/2006 के अनुसार किसी भी कर्मचारी को आवास छोड़ने की तिथि से एक वर्ष तक का Debarment Period पूर्ण होने के पश्चात ही आवास किराया भत्ता देने हेतु No Accommodation Certificate जारी किया जाता है। के.लो.नि.वि. (सिविल व वैधुत) एवं केयर टेकर द्वारा प्राप्त Vacation Report के अनुसार श्री सुरेश कुमार ने आवास संख्या एच-235 को दिनांक 07/09/2015 से खाली कर दिया है।

अतः दिनांक 06/09/2016 के पश्चात आवास किराया भत्ता देने के बारे में उनके अनुरोध के पश्चात उन्हें No Accommodation Certificate जारी कर दिया जाएगा। इस विषय में श्री सुरेश कुमार को इस कार्यालय के पत्र सं० सम्पदा/आवास 2014-15/442 दिनांक 15/04/2015 के द्वारा पहले ही सूचित किया जा चुका है।"

8. It was pleaded that the quarter was vacated on 07.09.2015 and the debarment ended on 06.09.2016. Accordingly, HRA was paid thereafter.

It was further pleaded that since the quarter was vacated in 2015 only, no HRA, as has been pleaded in the instant OA, is payable. Hence the OA is required to be dismissed.

9. The applicant had submitted rejoinder also which indicates that the applicant had made representation in the year 1994 regarding vacation of the quarter and thereafter such a representation was made on 24.06.2014 and thereafter another representation on 05.07.2015. The respondents pleaded that this indicates that the applicant had remained quiet for a period of 20 years after 1994 and as such the pleas of the applicant that he vacated quarter in 1994 cannot be accepted in view of the silence on his part as well as vacation report issued by CPWD on 07.09.2015.

10. The matter has been heard at length. Shri Ram Kanwar, learned counsel represented the applicant and Shri R.K. Sharma, learned counsel represented the respondents.

11. The applicant was allotted a Government quarter No.235, Old Press Colony, Faridabad. As per rules in force, when an employee is in possession of Government quarter, he is not entitled to receive HRA and he has to pay the licence fee for occupying the said quarter. The applicant claims to have vacated this quarter in July, 1994 and the observations made in judgment by the Civil Court has been relied in this regard.

It is noted that the said civil case was between the applicant and DHBVNL. Government Press Faridabad, where applicant was working, was not a party to that case. The said civil case is in respect of certain electrical charges and refund

of security by DHBVNL. This vacation can at best apply to surrender of electrical meter from the point of view of electricity consumption. It cannot apply to vacation in respect of surrender of vacant quarter to CPWD.

12. In regard to payment of HRA, the rules in force in the Government Press, Faridabad, were as per their notification dated 17.05.2006 and this will be applicable. The vacation of this quarter took place on 07.09.2015 as per the vacation certificate issued by CPWD. In view of this, averments by the applicant that he actually vacated the quarter in question in July, 1994, are not acceptable. A very long time of more than 20 years had elapsed between the date of claimed vacation, i.e., July, 1994 and issue of certificate in September, 2015. This delay is not explained by applicant.

13. It is also noted that the date of vacation as claimed by the applicant (July, 1994) and the date of institution of the case in the Civil Court (21.03.2009) against DHBVNL was also after more than 15 years. There was about four years' delay between decision by Civil Court in 2011 and vacation report by CPWD in 2015. All this while licence fee was deducted every month. Still applicant did not act. Such inaction and delays have not been explained by the applicant.

14. In view of the inexplicable delays and inaction, the averments by the applicant that he actually vacated the quarter in July, 1994 and got the requisite certificate from CPWD at that time itself instead of in 2015, are not acceptable.

15. Therefore, the actual vacation of the said quarter by the applicant is taken to be 07.09.2015 only and accordingly no HRA for the intervening period is taken to be admissible.

16. In view of the foregoing, the OA is without merit and the same is dismissed. No costs.

**(Pradeep Kumar)  
Member (A)**

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