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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, KOLKATA BENCH

CIRCUIT BENCH AT PORT BLAIR

O. A. No. 351/747 of 2018

In the Matter of :

An Application under section 19 of the  
Administrative Tribunal Act, 1985;

And

In the Matter of :

**GOUTAM CHAKRABORTY**

Son of Late Ashutosh Chakraborty,  
posted as the Assistant Engineer (Civil),  
ALHW at Hut Bay, Little Andaman and  
residing at ALHW Officer's Quarter, Hut  
Bay, Little Andaman, PIN - 744207;

..... Applicant

Versus

1. **UNION OF INDIA**

Service through the Secretary, Ministry  
of Shipping Bhavan, 1, Parliament  
Street, New Delhi - 110001;

2. **The Chief Engineer,**

Andaman Lakhadweep Harbour Works,  
ALHW Bhawan, Port Blair, PIN - 744101;

3. The Deputy Chief Engineer-IV,  
Andaman Lakhadweep Harbour Works,  
Little Andaman - 744207.

.....Respondents

CENTRAL ADMINISTRATIVE TRIBUNAL  
KOLKATA BENCH  
KOLKATA

No.O A.351/747/2018

Date of order : 14.8.19

Coram : Hon'ble Mrs. Bidisha Banerjee, Judicial Member

GAUTAM CHAKRABORTY  
VS.  
UNION OF INDIA & OTHERS  
(SHIPPING, A&N)

For the applicant : Mr. B.K. Das, counsel

For the respondents : Mr.V.D.S. Balan, counsel

ORDER

This application has been preferred to seek the following reliefs:-

"i) The impugned order being Memo No.DCE/LA/E-36/VOL-IV/13 dated 02.01.2018 issued by the Deputy Chief Engineer-IV, Andaman Lakhadweep HarbourWorks, Little Andaman-744207 (Respondent No.3 herein)(annexed as Annexure A-5), be declared illegal and hence set aside;

ii) The respondents concerned be directed to grant the benefit of Additional HRA to the applicant w.e.f. his date of transfer/posting to HutBay, i.e. w.e.f. 03.07.2017;

iii) The Respondents be further directed to pay the arrears of the additional HRA benefit to the applicant w.e.f. 03.07.2017 to the date of actual payment with interest of 8% thereon."

2. The applicant has claimed that he was initially posted in the department of ALHW at Port Blair purely a Central Govt. organisation having All India Transfer liability and is presently holding the post of Assistant Engineer (Civil). He was transferred from the office of the Deputy Chief Engineer-I, Circle ALHW Port Blair to the office of the O/C ALHW Kolkata vide office order No.241/2014 dated 28.05.2014. He joined at Kolkata on 11.06.2014 and worked upto 07.08.2017. Being

transferred from Kolkata to Port Blair he was paid all transfer facilities of a Central Government employee having All India transfer liability. He was again transferred to the office of the D.C.E.-IV Circle, ALHW vide office order No.381/2017 dated 03.07.2017 and joined on 10.08.2017 at Port Blair leaving his family at Kolkata. He submitted a written application dated 27.09.2017 to the Chief Engineer and Administration ALHW, Port Blair with a request to sanction Double HRA benefit as per rule in force as it was sanctioned in other similar cases followed by a reminder on 22.11.2017. He has stated as under :

*.....I had applied for sanction of double HRA on 21.08.2017, but till date no fruitful reply has been received from the competent authority in respect of sanction of the same. Regarding the benefit of double HRA, as per the rule under reference (1), the department has taken different stand for different employees of same eligibility. For example, double HRA benefit had been granted and paid to Shri P.K. Biswas, UDC and Shri B.N. Chanda, Assistant Engineer(C) when they were transferred from ALHW/Kolkata office to the DCE-IV, which has a meaning that they were eligible to get double HRA benefit. On the other hand, though my case is exactly similar to the said two employees, DCE-IV has wrongly interpreted and clarified me as ineligible."*

The applicant has contended that the Ministry of Surface Transport, New Delhi had issued a letter dated 09.02.1996 addressed to the Chief Engineer and Administrator, ALHW, Port Blair in respect of allowances and facilities the civilian employee the Central Government serving in the states and Union Territories of North Eastern Region improvements thereof. On 01.03.1996 Ministry of Surface Transport issued a letter to the concerned department ALHW with a request to take necessary immediate action to implement the decision as referred to in the letter dated 09.02.1996.

That, as per G.I.M.F.O.M. No.28/1/2017-E.I.I.T (B) dated 14.08.2018 as reported in Swamysnews dated September, 2018 :-

- (i) In case of civilian employees of central Government transferred to and posted from a date prior to 1.7.2017 who leave their families behind at the old duty station, the HRA of the old duty station will be calculated on the revised pay drawn on 1.7.2017 with the percentage rates of HRA effective on 1.7.2017 as per O.M.No.2/5/2017-EII(B), dated 7.7.2017;
- (ii) In case of civilian employees of Central Government transferred to and posted from a date on or after 1.7.2017 who leave their families behind at old duty station, the HRA of old duty station will be calculated on the revised pay drawn on the date of transfer with the percentage rates of HRA effective on the date of transfer.

The applicant is aggrieved as, being a mainlander and not an Islander, as entered in the service book of the applicant and the applicant being a Central Government employee having All India Transfer liability who is already enjoying F.S.P./Home town LTC and 1/3<sup>rd</sup> transfer TA when he had left family at Calcutta on last transfer posting from Calcutta to Port Blair is deprived of HRA violating the decision of the Government of India.

3. Per contra the respondents would refute the claim having stated that ALHW is a Central Government department under Ministry of Shipping, having its headquarters at Port Blair. The department is conducting recruitment from all over India for filling the posts. They would contend that the applicant, who belongs to mainland(Kolkata), was selected from mainland and posted at Port Blair. Hence his permanent hometown address is recorded as Mainland. Further he

was transferred and posted at various other Islands of A&N Islands and also at Kolkata as per the requirement of the department. He has completed more than 33 years of his service in ALHW. Out of 33 years' service only few years he was transferred to Kolkata and rest of his service was rendered in A&N Islands. As per Government of India's rules, the LTC is given to all central Government employees to visit their hometown. Accordingly he was given the benefit for availing LTC to visit His hometown as and when he wanted to visit. As the applicant's family does not accompany him on his transfer to the Islands from mainland, on the last occasion of his transfer from Kolkata to Little Andaman no bill was submitted by him against the transfer T.A. for his family, so he was given only 1/3<sup>rd</sup> of the Transfer T.A. entitlements. As such there is no violation of any Government rule as claimed by the applicant.

The respondents have strongly denied that the letter dated 09.02.1996 issued by the Ministry of Surface Transport, New Delhi pertained to his case, and claimed that in case of any wrong payment made against the double HRA to the ineligible employees/pensioners of ALHW, the amount shall be recovered from the salary/adjusted from their pension and that O.M. No.28/1/2017-E-II(B) dated 14.08.2018 is related to revision of rate of HRA as per 7<sup>th</sup> CPC.

4. We heard the Id. counsels for the parties, perused the materials on record and considered the implications of various circulars cited by

the applicant. We would discuss the implications of various provisions as cited by the applicant in his favour.

5(a) A circular dated 09.02.1996 is extracted hereunder with supplied emphasis for clarity,(to the extant relevant and germane to the lis) reads:-

"To  
The Chief Engineer & Administrator,  
Andaman Lakshadweep Harbour Works,  
Post Box No.161,  
Port Blair – 744 101

dated 9<sup>th</sup> February 1996

*Subject : Allowances and facilities for civilian employees of the Central Government serving in the States and Union Territories of North Eastern Region – improvement thereof:*

*Sir,*

*I am directed to refer to your U.O. Note No ALHW/Acct. / (10) / 93 dated 28.6.94 on the above mentioned subject and to say that the cases referred to ALHW for clarification in regard to drawal of double HRA on transfer of Central Government Civil Employees to North Eastern Region etc. in terms of Ministry of Finance and they have clarified as under:-*

*The package of benefits granted to the Central Government servants transferred to NE Region was basically for the purpose of attracting and retaining the services of competent officers to serve in this Region. Under the existing orders on this subject, the Central Government employees transferred to NE Region etc. are allowed to retain the Government accommodation at the last duty station, if they were in occupation of Government accommodation at this place before their transfer as per the O.M. dated 15.2.84 of the Ministry of Works & Housing. In the same analogy if they were in occupation of hired private accommodation or of accommodation owned by them at the last place of posting before transfer to NE Region and were in receipt of HRA, if the families continue to stay in the last place of posting as per Ministry of Finance O.M. dated 29.3.84 and 25.5.86, besides the normal entitlement to accommodation/HRA at the new place of posting in the NE Region. This facility was allowed to ensure that the families of Central Govt. employees do not suffer due to dislocation on account of officials transferred to the NE Region (this being a difficult area most of the employees getting transferred to this Region do not prefer to take their families along with them.) The clarifications in respect of the situations as mentioned in sub-paras (1) to (vi) are as follows:-*

A bare perusal of the circular shows that it is intended to "ensure that the families of Central Govt. employees do not suffer due to dislocation on account of officials transferred to the NE Region." When a central Government employee is transferred from one place to NE Region. The applicant, as we discern,

belongs to Kolkata. He was posted at A&N on his first posting . He joined leaving his family behind at Kolkata .

(b) An O.M. dated 14.08.2018 as reproduced hereunder, reads as follows:-

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Swamysnews

(4)

**SECTION 5— Concessions when posted to  
North-Eastern Region, etc.**

**6. Benefits of two HRAs**

*Page 54.—*

*Add the following as a new para. below the citation “— Part-III, Appendix-9 and OM, dated 19-7-2017”:-*

*“Clarification.— With effect from 1-7-2017, additional HRA at old duty station will be granted to all those Central Government civilian employees who have been transferred to North-Eastern Region, Andaman and Nicobar Islands, Lakshadweep Islands and Ladakh, prior to 1-7-2017 or after 1-7-2017 and continue to remain posted there after 1-7-2017, as under:-*

- (i) In case of civilian employees of Central Government transferred to and posted from a date prior to 1-7-2017 who leave their families behind at the old duty station, the HRA of the old duty station will be calculated on the **revised pay drawn on 1-7-2017 with the percentage rates of HRA effective on 1-7-2017 as per O.M. No. 2/5/2017-E. II (B), dated 7-7-2017.**
- (ii) In case of civilian employees of Central Government transferred to and posted from a date on or after 1-7-2017 who leave their families behind at the old duty station, the HRA of the old duty station will be calculated on the **revised pay drawn on the date of transfer with the percentage rates of HRA effective on the date of transfer.**

*— OM; dated 14-8-2018”.*

We decipher that this circulars explicitly allows such Government servants to claim double HRA at revised rates who “have been transferred” to Andaman and Nicobar Islands. The applicant was posted as his first posting at Port Blair i.e. Andaman & Nicobar Islands.

He has been transferred from Port Blair to Kolkata and back to Port Blair and was never required to shift his family out of Kolkata.

(c) An Office order dated 02.11.2018 issued by Deputy CE(N) ALHW reads as under:-

"No.ALHW/DCE-III/CB/ADM/PF-123/

Dated 02.11.2018

OFFICE ORDER NO. 3....(not legible)/2018

*In accordance with O.M.No.2/5/2017-E.II(B) dated 07.07.2017, O.M. of even number dated 19.07.2017 and O.M. No.(not legible)28/1/2017-E.II(B) dated 14.08.2018 of Govt. of India, Ministry of Finance, New Delhi, sanction is hereby accorded to Shri R. Prabhakaran, JE(C) for grant of House Rent Allowance (for last place of posting at OIC, ALHW, Chennai) 30% of Pay+Grade Pay as on 24.09.2016 =Rs.15110/-+4600/- =Rs.5913/- (Rupees five thousand nine hundred and thirteen only) per month for the period from 24.09.2016 to 24.06.2017.*

*The expenditure is debitable to the same head of accounts under which his Pay and Allowances are being drawn.*

*Deputy Chief Engineer(Nicobar)"*

(d) The applicant would cite the case of one R. Prabhakaran, JE(C) who has been allegedly favoured with double HRA. His posting particulars are as under:-

No.ALHW/ADM/2(06)/2011

Port Blair, Dated 31-12-2015

OFFICE ORDER NO.637/2015

*The following transfer and posting of Group "B" Non-Gazetted Officers are hereby ordered with immediate effect.*

Sl.No.	Name & Designation	Circle from which Transferred	Circle to which transferred	Remarks
1.	Shri R. Prabhakaran, JE(C)	OIC, ALHW Chennai DCE(Mech) circle	DCB-III ALHW Campbell Bay	Public Interest
2.	XXXXXXXXXXXXXXXXXXXX	XXXXXXXXXX	XXXXXXXXXXXX	XXXXXXXXXX

*This issues with the approval of Chief Engineer & Administration(ALHW):  
ADMINISTRATIVE OFFICER(ALHW)"*

The extract irrefutably establishes that Prabhakaran was transferred from Chennai to Campbell Bay and not 'posted' for the first time in Andaman and Nicobar Islands. Therefore, no parity can be drawn between the two. Thus none of the circulars etc. come to his aid.

6. In the aforesaid backdrop, having noted that the applicant has failed to establish that even on his first posting at Port Blair, and not a transfer from mainland to Port Blair, he deserved double HRA.

7. Accordingly this O.A. is dismissed. No costs.

(Bidisha Banerjee)  
Judicial Member

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