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**CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, MUMBAI**

ORIGINAL APPLICATION No.242/2014

Date of decision: 04.12.2019

**CORAM:- Dr. BHAGWAN SAHAI, MEMBER (A) .
R.N. SINGH, MEMBER (J) .**

Shri S.S. Dangi, aged 62 years
Occu: Retired as Dy Director
Central Board for Workers
Education, Nagpur, Residing at
C-109, Puru Housing Society,
Airport Road, Near Sanjay Park,
Pune - 411 032.

... Applicant.

(By Advocate Shri R. G. Walia)

VERSUS.

1. Union of India
through Secretary, Ministry
of Labour and Employment
Shram Shakti Bhavan,
Rafi Marg, New Delhi - 11.
2. The Chairman,
Central Board of Workers
Education, Room No.21,
Jam Nagar House, Mansing Rd,
New Delhi - 110 011.
3. The Director
Central Board of Workers
Education, North Ambazari,
Nagpur - 440 033.

.... Respondents.

(By Advocate Shri N. K. Rajpurohit)

**O R D E R (O R A L)
Per: R.N.SINGH, MEMBER (J)**

1. When the case is called out, Shri R. G.

Walia, learned counsel appeared for the applicant.

2. Shri N. K. Rajpurohit, learned counsel appeared for the respondents.

3. The applicant who has retired on attaining age of superannuation on 31.08.2011 while working as Dy. Director under the respondents has filed the present OA under Section 19 of the Administrative Tribunals Act, 1985 praying for the following reliefs:

"8(a) This Hon'ble Tribunal be pleased to order and direct the respondents to pay to the applicant an amount of Rs.2,77,706/- and also an amount of Rs.73000/- which have been illegally withheld by the respondents, along with the interest @18 p.a.;

(b) This Hon'ble Tribunal be further pleased to order and direct the respondents to pay/release other payments due to applicant; Rs.53992/- towards TA and Lump sum composite transfer Grant on retirement; Rs.9300/- towards Honorarium for performing the duties of Hostel Superintendent; along with the interest @18 p.a.;

(c) Cost of this Application may kindly be provided.

(d) This Hon'ble Tribunal be further pleased to pass/grant any such other and further relief as this Hon'ble Tribunal may deem fit and proper in the facts and circumstances of the present case;

4. In response to the notice issued from this Tribunal the respondents have filed reply and disputed and denied the claim of the applicant. However, when the matter is taken up for final hearing the learned counsels for the parties submit that so far as the

claim of the applicant with regard to the recovery of Rs.2,77,706/- (Two Lakhs Seventy Seven Thousand Seven Hundred and Six Rupees) in view payment towards HRA to the applicant is concerned, the claim of the applicant is squarely covered by the order/judgment dated 07.07.2015 of this Tribunal in OA No.36/2012 titled D. B. Vyas Vs. Union of India and Others. The order/judgment dated 07.07.2015 of this Tribunal has been challenged before the Hon'ble High Court of Bombay in WP No.7185/2015 and the Hon'ble High Court has passed the following order dated 13.01.2017;

"Heard.

Rule.

Recovery of HRA as directed by the respondent under the impugned order stands stayed during the pendency and disposal of this petition."

5. The learned counsel for the applicant submits that so far as the claim of the applicant with regard to the payment of HRA is concerned the applicant undertakes to be bound by the final judgment of the Hon'ble High Court in the aforesaid WP No.7185/2015. He accordingly prays for interim reliefs granted by the Hon'ble High Court in the aforesaid WP No.7185/2015 should also be extended to the applicant in the present OA more particularly in view of the fact that the benefit of the interim order dated

13.01.2017 has been extended to the petitioner therein the WP No.7185/2015 to D. B. Vyas who is similarly placed as the applicant in the present OA. To the such prayer of the applicant there is no dispute from the learned counsel for the respondents.

6. The learned counsel for the applicant also invites our attention to the letter dated 12.02.2013 (Annexure A-6) of the Senior Accounts Officer (IA) addressed to the Dy. Director Central Board of Workers Education and copy endorsed thereof to the Director, CBWE, North Amba Zari Road, Nagpur-33 and the applicant in the present OA, which reads as under:

"No.IA/LAB/CBWE-Mumbai/2009-10/296

Dated: 12.02.2013

The Dy Director
Central Board for Worker's Education
Shramik Shikshan Bhawan,
Lal Bahadur Shastri Marg,
Near Kurla Court,
Mumbai-400 070.

Subject: Irregular drawing of HRA in
r/o Sh. S. S. Dangi, Ex Dy Director
(Trg)-para-1 of 02/2010 of IIWE,
Mumbai-reg.

Sir,

Please refer the letter
No.SSE/ExDDT/131 dated 21.01.2013
received from Shri S. S. Dangi, Ex Dy
Director (Trg) IIWE Mumbai. In this
connection it is stated that the Audit
Para No.1 of I.E. of 2/2010, regarding
the irregular drawal of HRA to the
tune of Rs.14.60 lacs. Almost all, S.
No.5 of the said para's concerned, it

is to state that Sh. S. S. Dangi, then Dy Director (Training) at IIWE, Mumbai was working as Hostel Warden in addition to his own duties.

AS per Dy Director (Admn), CBWE (HQ), Nagpur, Hostel Warden in entitled to occupy one room in the Hostel and allowed to draw HRA. Hence the HRA paid to Sh. S. S. Dangi was permissible and the S. No. 5 of Para 1 of IR 2/2010 for the recovery of HRA to the tune of Rs.2,77,706/- from Sh. S. S. Dangi may be dropped subject to the verification of rule.

Yours faithfully,
sd/-

Sr. Accounts Officer (IA)

Copy to,

1. The Director, CBWE, North Amba Zari Road, Nagpur-440033 (Maharashtra).

2. Shri S.S. Dangi, aged 62 years, Occu: Retired as Dy Director, Central Board for Workers Education, Nagpur, Residing at C-109, Puru Housing Society, Airport Road, Near Sanjay Park, Pune - 411 032 (Maharashtra) with reference to his above mentioned letter. He is also requested to furnish the correct and authenticate rule position in this regard and process his case through the Drawing Disbursing Officer or the Head of Office OF the Office of CBWE (IIWE) Mumbai at the earliest, so that the Para may be settled.

Sd/-
Sr. Accounts Officer (IA)"

7. Such letter of the respondents indicates that a recovery of Rs.2,77,706/- from the retiral dues of the applicant is prima facie not sustainable in the

eyes of law, of course, subject to the aforesaid WP.

8. With regard to the request of the applicant for release of a sum of Rs.730000/- (Seventy Three Thousand Rupees) towards the medical reimbursement is concerned, the pleadings on record indicate that no final decision has been taken by the Competent Authority i.e. the respondent no.3.

9. In view of the aforesaid with consent of the parties, the OA is disposed of with directions to the respondents to release the withheld amount of Rs.2,77,706/- i.e. payment made to the applicant under the HRA to the applicant. It is made clear that release of the such amount withheld on account payment towards HRA will be subject to outcome of the WP No.7185/2015 pending adjudication before the Hon'ble High Court of Bombay.

10. It is further directed that the respondent no.3 shall consider the claim of the applicant of Rs.73000/- towards medical reimbursement, stated to have been passed by himself while working as Dy. Director under the respondents and also to consider and take final decision towards payment of aforesaid amount of Rs.53992/- (Fifty Three Thousand Nine Hundred and Ninety Two Rupees) towards Transport allowance and Rs.9300/- (Nine Thousand Three Hundred

Rupees) towards performing the duties of Hostel Superintendent and interest on such payment keeping in view the relevant rules and instructions by passing a reasoned and speaking order.

11. The aforesaid exercise shall be completed by the respondents within six weeks from the date of receipt of certified copy of this order.

12. The OA is disposed of in the aforesaid terms. No order as to costs.

(R. N. Singh)
Member (J)

(Dr. Bhagwan Sahai)
Member (A)

V.

SD
10/12/12

