
(2010) 10 SHI CK 0090
In the High Court Of Himachal Pradesh
Case No : C.W.P. No. 2843 of 2009

Gopal Singh

APPELLANT

Vs

H.R.T.C.

RESPONDENT

Date of Decision : 05-10-2010

Acts Referred:

Citation : (2010) 10 SHI CK 0090

Hon'ble Judges : Kurian Joseph, C.J.;Kuldip Singh, J

Bench : Division Bench

Judgement

Kurian Joseph, C.J.—The petitioners in all these cases are working under various capacities in the respondent corporation and they were posted at Delhi at the relevant time. According to the petitioners, they are entitled to house rent allowance at the rate of 30% on the basic pay plus D.P. The corporation has turned down their request on the ground that they are bound by Annexure R-1 government order dated 8.12.1999. That notification deals with the H.R.A. payable to the employees of the State of Himachal Pradesh. In paragraph-5 of Annexure R-1, it is stated as follows:

The State Government employees who are posted outside the State in connection with the affairs of the State also are entitled to the house rent allowance on enhanced rates which will be equal to the rates admissible at Shimla in case of National Capital Delhi. All States/UT capitals, and the State Government employees who are posted at Pathankot and Jullundur will be entitled to the rates of house rent allowance admissible at District headquarters in the State. For other places it will be at par with the admissible at other places in the State. The orders issued by the F.D. vide OM No. 2-7/69-Fin(R&E) dated 22.7.1989 and 4.6.1990 shall stand modified to this extent.

2. It has been further clarified by the government that notification should be complied with, in Annexure R-2 circular issued by the government on 28th August 2003, which reads as follows:

It has come to the notice of State Govt. that some of the Boards/Corporations/ Autonomous Bodies are paying house rent allowance to their employees at different rates other than as notified by State Govt. on the grounds that it is being paid as per provisions of their bye laws. The Govt. has taken a serious note of this and it has been decided that in order to maintain uniformity in payment of H.R.A. to employees please ensure that it is paid strictly as per orders issued vide O.M. No. Fin-C(B)(7)11/98 dated 8.12.98/28.12.98. If necessary, amend the relevant service bye law(s)/regulations to avoid any wrong precedent and ambiguity.

3. It is the contention of the petitioners that as per recommendations of 5th Pay Commission, they are entitled to H.R.A. at the rate of 30%, if working at places like Delhi having population of 50 lacs and above. It is also submitted that Pay Commission has requested the State Government to adopt their recommendations. Still further it is pointed out that in the cases of employees working in H.P.T.D.C, H.P.M.C. and H.P. State Co-operative Bank, they are paid H.R.A. at the rate of 30% in case they are serving in places like Delhi. However, the employees under the H.R.T.C. are discriminated.

4. Since the stand taken by the Corporation is that they only follow the government instructions, it is only appropriate that the matter engages the attention of the government. In the above circumstances, the writ petitions are disposed of as follows:

The petitioners herein either individually or collectively or through their Union may make a representation before the Government of Himachal Pradesh within a period of one month from today. On receipt of such representation, the Principal Secretary, Finance Department shall examine the matter in the light of submissions made in the representation and pass appropriate order in the matter within another three months. In case any of the employee requests for an opportunity of hearing, the same shall also be granted.