
(2006) 10 AHC CK 0098

In the Allahabad High Court

Case No : Civil Miscellaneous Writ Petition No. 8868 of 1983

Gyan Prakash Govil and Ors.

APPELLANT

Vs

State of U.P.& Ors.

RESPONDENT

Date of Decision : 11-10-2006

Acts Referred:

Citation : (2006) 10 AHC CK 0098

Hon'ble Judges : S.U.Khan, J

Final Decision : Allowed

Judgement

S.U. Khan, J.—The five petitioners, are Principal, Lecturer, Assistant Teacher, Clerk and Daftari in Janta Inter College, Chherat District Aligarh, which is a recognized and aided educational institution. The College in question is situate beyond municipal limits of Aligarh but within 8 kilometer therefrom, as is evident from paragraph 5 of the writ petition, which has been admitted in paragraph 5 of the counteraffidavit filed on behalf of District Inspector of Schools.

2. Through Government Order dated 2071978 (Annexure "1" to the writ petition) House Rent Allowance was made admissible to the teachers and other employees of Government recognized and aided Educational Institutions situate within the municipal limits of the cities mentioned therein, including Aligarh. Through another Government Order dated 221980 (Annexure "2" to the writ petition) it was provided that the employees of those Colleges, which were situate beyond the municipal limits of the districts mentioned therein (including Aligarh) but within 8 kilometers therefrom, were also entitled to House Rent Allowance (H.R.A.). Thereafter on 15121981 and 29121981 Government Orders were issued in respect of Government employees notifying higher slab/rate of House Rent Allowance. (Copy of G.O. dated 29121981 is Annexure IV to the writ petition). On the same date, i.e. 29121981 another Government Order was issued, copy of which is Annexure "5" to the writ petition, applying the same slab/rate of House Rent Allowance to employees of Government aided colleges, which was made applicable to Government employees by Annexure IV.

Thereafter another Government Order was issued on 2881982, copy of which is Annexure "8" to the writ petition. Through the said Government Order it was provided that only those Government employees would be entitled to House Rent Allowance as provided under Government Order dated 15121981 and 29121981, who were working in the offices which were situate within the municipal limits of the cities mentioned therein and not to those employees who were working in the office situate beyond the municipal limits but within 8 kilo meters. Till then those Government employees were also entitled to the H.R.A. at the rate as provided under Government Order dated 29121981 who were working in the offices which were situate beyond the municipal limits of the cities mentioned therein but within 8 kilo meters there from.

3. Since the issuance of the Government Order dated 2071978, copy of which is Annexure "1" to the writ petition, which was effective from 141978, petitioners were getting H.R.A. as stated in para 5 of the writ petition and admitted in para 5 of the counteraffidavit. However, on the basis of Government Order dated 2821982 (Annexure "8" to the writ petition), District Inspector of Schools Aligarh passed an order on 761983, copy of which is Annexure "7" to the writ petition, mentioning therein that in view of Government Order dated 2881982 petitioners were not entitled to House Rent Allowance, as the College in which they were working was situate beyond the limits of Aligarh Municipal Board (now Nagar Nigam, Aligarh). The said order has been challenged through this writ petition.

4. The Government Order dated 2881982 (Annexure "8" to the writ petition) is meant only and only for Government employees. It is not mentioned in the said order that it would be applicable to employees of Government Aided Schools and Colleges also. Learned Standing Counsel has argued that through Government Order dated 29121981 (Annexure "4" to the writ petition) special rates of H.R.A. Were made admissible to Government employees and through another Government Order of the same date (Annexure "5" to the writ petition) the same benefit was extended to the employees of Government aided schools and colleges, hence Government Order dated 2881982 even though basically meant for Government employees would also apply upon the teachers and other employees of Government aided schools and college. The argument is not tenable. Rather it goes against the State. When in spite of order dated 29121981 (Annexure "4" to the writ petition) for the Government employees, another Government Order of the same date making admissible similar rates of House Rent Allowance in respect of Government aided schools and colleges was issued, it amounted to clear stand of the Government that Government orders meant for Government employees do not ipso facto apply to employees of Government aided schools and college. No Government order has been shown depriving the employees of those Government aided schools and colleges, which are situate beyond the municipal limits of the cities mentioned in the earlier Government order but within 8 kilo meters therefrom of H.R.A. benefit. Neither it has been shown that Government Order dated 2881982 was amended and made applicable to Government Aided Colleges employees also.

5. Accordingly, I hold that the Government Order dated 2881982 does not apply to employees of Government aided schools and colleges.

6. Writ petition is accordingly allowed. The order dated 761983 passed by the District Inspector of Schools, Aligarh (Annexure "7" to the writ petition) is quashed. It is held that the petitioners are entitled to House Rent Allowance as per Government Order dated 29121981 contained in Annexure "5" to the writ petition. Let necessary orders be passed by the District Inspector of Schools and consequential steps be taken accordingly.