
(2016) 01 DEL CK 0048

In the Delhi High Court

Case No : W.P. (C) 312/2016, CM Appl. 1273-1274/2016, W.P. (C) 323/2016, CM Appl. 1303-1304/2016, W.P. (C) 324/2016, CM Appl. 1308/2016, W.P. (C) 325/2016, CM Appl. 1311, 1314/2016, W.P. (C) 326/2016, CM Appl. 1316-1317/2016, W.P. (C) 369/2016, CM Appl. 1548-1549/

Gyanendra Kumar and Others

APPELLANT

Vs

Union of India and Others

RESPONDENT

Date of Decision : 20-01-2016

Acts Referred:

Citation : (2016) 2 ADDelhi 367

Hon'ble Judges : Hima Kohli and Sunil Gaur, JJ.

Bench : Division Bench

Advocate : Vijendra Mahndiyan and Pallavi Awasthi, Advocates, for the Appellant; Harish Kumar Garg and Ravinder Gupta, Advocates, for the Respondent

Final Decision : Disposed Off

Judgement

1. The present batch of petitions have been filed by the petitioners praying inter alia for directions to the respondent No. 2-CISF to pay them House Rent Allowance (hereinafter referred to as "HRA"), to which they are legitimately entitled.
2. All the petitioners herein, who are enrolled as members of the respondent No. 2-CISF, had approached the respondent No. 2 for permission to live out of campus with family, which was duly granted. None of the petitioners herein were provided with the Government Accommodation (Married).
3. Learned counsel for petitioners states that the issue raised here is no longer res integra as several other petitions for the same relief have been filed in this court from time to time, including a batch of matters, lead matter being W.P.(C) 5407/2015 entitled Avijit Das Vs. Union of India & Ors., that were allowed by a Coordinate Bench vide Judgment dated 27th May, 2015. In the said petitions, the respondent No. 2-CISF's position was that since the petitioners had been

provided with barrack accommodation but were later permitted to leave the said premises, they would not be entitled to claim HRA. Turning down the respondent's plea and relying upon a decision of a Coordinate Bench of this Court in W.P.(C) 1712/2006 entitled *Inspct./Exe Jaspal Singh Mann Vs. UOI & Ors.* decided on 23rd May, 2008, the Division Bench had issued a writ of mandamus to the respondent-CISF that if no official accommodation was made available to the petitioners in the said case, then they would be paid HRA for the period for which outdoor residence permission was granted to them.

4. Learned counsel for the petitioners submits that prior to the judgment dated 27th May, 2015, another batch of matters that had raised the same issue, was allowed on 7th April, 2015, by the Division Bench in W.P.(C) 3340/2015 entitled *Jamila Hassina Vs. Union of India & Ors.* Aggrieved by the said order, the respondent had preferred Special Leave Petition No. 15026/2015 (later on converted into Special Leave Petition (Civil) 24592/2015) before the Supreme Court, which came to be dismissed at the stage of admission on 24th August, 2015. It is thus submitted that petitioners are entitled to the same relief, as has been granted to other similarly placed petitioners in terms of the judgment dated 7th April, 2015, as it has since attained finality.

5. In view of the fact that the Supreme Court has not interfered in the judgment dated 7th April, 2015 pronounced by the Division Bench in the case of *Jamila Hassina (supra)* and vide order dated 24th August, 2015, Special Leave Petition (Civil) 24592/2015, has been dismissed, we are of the opinion that the principle of law raised in the said petitions has been conclusively decided and it should apply in rem to all similarly placed personnel in the CISF, including the petitioners herein.

6. Accordingly, the present writ petitions and the applications are disposed of by issuing a writ of mandamus to the respondents that the petitioners would be paid HRA for the period for which they were granted outdoor residence permission, if no official accommodation (married) has been made available to them. While making the payment of HRA, the monetary compensation paid to the petitioners in terms of sub-Rule 3 of Rule 61 of the CISF Rules, 2001 shall be duly adjusted. The said payment shall be released to the petitioners within a period of four months from today. If the said amount is not released to the petitioners within the stipulated timeline, then the same shall be paid by the respondents along with simple interest @8% per annum after the expiry of four months, till the date of payment.

7. The petitions are disposed of alongwith the pending applications.

8. Before parting with these cases, we may note that on the last date of hearing, i.e., on 18.01.2016 it was enquired from learned counsel for the respondents as to whether compliances of the order dated 21.08.2015 passed by the predecessor Bench in a batch of matters, lead matter being W.P.(C) 7920/2015 have been made. The said query was posed in view of the fact that despite clear

orders directing the respondents to ensure that no further case for release of HRA comes to the Court when the principles enunciated in the earlier judgment were clear, several cases have trickled in thereafter.

9. Pertinently, vide order dated 21.08.2015 passed in W.P.(C) 7920/2015, the respondent No. 2/CISF was directed to issue a Circular in proper format within two weeks for the aggrieved employees to apply for release of HRA and further directions were issued that on such applications being received, the same would be processed in a time bound manner, within four weeks from the date of receipt thereof. Lastly, it was directed that in case the Court encounters any similar claims for release of HRA after 12 weeks from 21.08.2015, then the DG, CISF will be summoned to attend the Court proceedings.

10. The period of 12 weeks reckoned from 21.08.2015, had expired on 21.11.2015. However, even in the month of January, 2016, several petitioners aggrieved by non-release of HRA, have approached the Court for appropriate orders. On the last date of hearing, time was granted to learned counsel for the respondents to obtain instructions from the Department as to what action has been taken by the respondent No. 2/CISF for making compliance of the order dated 21.08.2015, passed in the captioned petition.

11. Today, counsel for the respondents submits that there was no delay on the part of the respondent No. 2/CISF, who had forwarded a note to the Ministry of Home Affairs on 07.09.2015, alongwith a draft circular and the said circular was in turn forwarded by the Ministry of Home Affairs to the Ministry of Finance on 30.09.2015, for approval. However, in its note dated 30.10.2015, the Department of Expenditure, Ministry of Finance observed as below:-

" XXX XXX XXX

2. The matter has been considered in this Department and implementation of the common order in respect of WPs mentioned in Para "1" above is agreed to in respect of the petitioners only. In so far as issue of common order for grant of House Rent Allowance to all similarly situated CISF personnel in concerned, as contained in order dt. 21.08.2015 by the Honourable Delhi High Court, a decision on the matter may be deferred till the Report of 7th Central Pay Commissioner (CPC), which is awaited, is considered by the Government."

12. Learned counsel for the respondents states that an application for seeking review of the order dated 21.08.2015 was filed in W.P.(C) 7920/2015 in December, 2015 and vide order dated 21.12.2015, the same was dismissed with an observation that the Court had already extended the time for compliance of the order dated 18.12.2015 passed in W.P.(C) 11658/2015.

13. Vide order dated 18.12.2015 passed in a batch of matters, lead matter being W.P.(C) 11658/2015, the Division Bench had granted the respondents a period of 12 weeks reckoned from 18.12.2015, for making compliance of the order dated 21.08.2015. The period of 12 weeks reckoned from 18.12.2015, shall expire on

17.03.2016. However, looking at the recalcitrant stand taken by the respondent No. 1/UOI as reflected from the note sheet dated 30.10.2015 reproduced in para 11 above, it is deemed appropriate to monitor the progress in the case by directing the Ministry of Home Affairs and Ministry of Finance to file separate affidavits stating inter alia as to the action taken by them pursuant to the extension of time granted on 18.12.2015. The affidavits shall be filed within two weeks from today in W.P.(C) 272/2016, which is listed on 20.02.2016 for awaiting compliance.

DASTI to the counsel for the respondents.