

(2013) 10 P&H CK 0092
In the Punjab And Haryana At Chandigarh
Case No : Civil Writ Petition No. 16831 of 1992

Prem Singh and Others	Vs	APPELLANT
Punjab Mandi Board and Another		RESPONDENT

Date of Decision : 07-10-2013

Acts Referred:

Citation : (2014) 173 PLR 775 : (2014) 1 PLR 137 : (2014) 3 SCT 216

Hon'ble Judges : Rameshwar Singh Malik, J

Bench : Single Bench

Final Decision : Allowed

Judgement

Rameshwar Singh Malik, J.—The present writ petition is directed against the order dated 18.12.1989 (Annexure P-2) and order dated

29.09.1992 (Annexure P-4), whereby, House Rent Allowance (HRA) of the petitioners was sought to be reduced by passing the impugned

orders on the ground that the HRA shall be applicable to the place of work and not to the place of posting. Briefly put, the facts of the case are

that while posted at Amritsar on their respective posts, petitioners used to go out of station for performing their duties and by evening they used to

return to Amritsar because they were staying at Amritsar along with their families. They were being paid HRA, which was admissible to the

employees posted in A Class cities. HRA which was being paid to the petitioners was sought to be reduced on the ground that it was payable

according to the place of work and not according to the place of posting. Hence this writ petition.

2. While issuing notice of motion, operation of the impugned orders Annexure P-2 and Annexure P-4 was stayed by a Division Bench of this

Court vide order dated 18.12.1992. Reply by way of affidavit of the Administrative Officer, Punjab Mandi Board was filed and petitioners filed

their replication thereto. Writ petition was admitted for regular hearing vide order dated 19.05.1993 passed by a Division Bench of this Court.

That is how, this Court is seized of the matter.

3. Learned counsel for the petitioners submits that the case of the petitioners was squarely covered under the policy instructions dated 30.08.1988

(Annexure P-1) and "particularly clause (iv) thereof at page 17 of the paper book. He further submits that the impugned orders Annexure P-2 and

Annexure P-4 run counter to the above said policy instructions (Annexure P-1). Respondent authorities proceeded on erroneous approach while

passing the impugned orders in violation of the policy instructions (Annexure P-1), which were supposed to be complied with meticulously at the

hands of the respondent authorities. He next contended that since petitioners used to go out of Amritsar city only for the purpose of performing

their duties and used to come back by evening because they were staying in Amritsar along with their families, the impugned orders were wholly

unwarranted and were liable to be set aside. Finally, he prays for setting aside the impugned orders, by allowing the present writ petition.

4. Having heard the learned counsel for the petitioners at considerable length, after careful perusal of record of the case and giving thoughtful

consideration to the contentions raised, this Court is of the considered opinion that in the given fact situation of the present case, the instant writ

petition deserves to be allowed. To say so, reasons are more than one, which are being recorded hereinafter.

5. It is a matter on record that petitioners were posted at Amritsar. Their place of posting being A Class city, they were entitled for the HRA

admissible to the employees who were posted in A Class city. The policy instructions (Annexure P-1) provides the eligibility for HRA. The

relevant clause (iv) reads as under:

iv. The eligibility house rent allowance of an employee shall be determined with reference to the place of posting of the employee.

6. The respondents have not placed on record any record to the contrary so as to show that the place of posting of the petitioners was other than

Amritsar. If the place of posting of the petitioners was Amritsar, their going

outside the city of Amritsar to perform their duties and coming back by evening to Amritsar so as to stay with their families, will not adversely affect the rights of the petitioners for claiming HRA admissible to the employees posted in A Class cities. The respondents have failed to point out any contrary record in this regard.

7. While replying to para 9 of the writ petition, respondents in corresponding para 9 of the written statement took the following averments:

The petitioners are entitled to the House Rent Allowance on the basis of Annexure P/1 and the latest policy decision taken by the Board keeping in view the factual position of the petitioners.

8. In view of above, it is unhesitatingly held that the impugned orders passed by the respondent authorities were contrary to the policy instructions (Annexure P-1) and cannot be sustained.

9. It is the admitted case between the parties that before passing the impugned orders Annexure P-2 and Annexure P-4, petitioners were getting

HRA admissible to the employees posted in A Class cities. Before passing the impugned orders which entail civil consequences, respondent

authorities also failed to comply with the basic principle of natural justice. No show cause notice was issued to the petitioners before passing the

impugned orders. They were also not granted any opportunity of being heard. Thus, the rule of audi alteram partem was also glaringly violated by

the respondent authorities, while passing the impugned orders. Having said that, this Court feels no hesitation to conclude that the impugned orders

passed by the respondent authorities cannot be sustained.

10. The present case can be tested from the another angle. A bare reading of the impugned orders would show that the same are just non-

speaking and cryptic orders. Respondent authorities have failed to assign any reason much less cogent reasons thereof while passing the impugned

orders. It is the settled proposition of law that the administrative authorities are under legal obligations to assign reasons in the administrative orders

passed by them. Reasons are integral part of the orders passed by the administrative authorities. Executive authorities are expected to speak their

mind in the orders passed by them, so as to enable the Courts to appreciate, as and when the impugned orders are subject to judicial review, as to

what was the reason weighing in the minds of the authorities, at the time of

passing the impugned orders. In the present case, both the impugned orders have been found to be non-speaking and cryptic, which cannot be sustained.

11. No other argument raised.

12. Considering the peculiar facts and circumstances of the case noted above, coupled with the reasons aforementioned, this Court is of the considered view that the present writ petition deserves to be allowed.

13. Consequently, the impugned orders dated 18.12.1989 (Annexure P-2) and 29.09.1992 (Annexure P-4), passed by the respondents are

hereby ordered to be set aside. The respondent authorities are directed not to effect any recovery of the House Rent Allowance already paid to

the petitioners, which was admissible to the employees posted in A Class cities. Resultantly, with the observations made and directions issued,

hereinabove, the present writ petition stands allowed, however, with no order as to costs.