

(2010) 12 SHI CK 0101
In the High Court Of Himachal Pradesh
Case No : CWP (T) No. 8991 of 2008

R.K. Banta

APPELLANT

Vs

Agro Industrial Packaging India Limited and Others

RESPONDENT

Date of Decision : 23-12-2010

Acts Referred:

Citation : (2010) 12 SHI CK 0101

Hon'ble Judges : V.K. Sharma, J

Bench : Single Bench

Final Decision : Allowed

Judgement

V.K. Sharma, J.—The petition has been filed on the following prayer vide paras 7 (i):

(i) That the impugned orders dated 19.7.2002 (Annexure A-6) and dated 5.12.2002 (Annexure A-9) may be quashed and set aside and the Respondents may be directed not to effect any recovery from the applicant.

2. In reply on behalf of Respondents No. 1 and 2, the following stand has been taken vide para 6(ix):

(ix). That the contents of sub para-ix are admitted. It is however submitted that the recovery on account of House Rent allowance and pooled licence free were issued in view of the Audit objection raised by the A.G. Audit and further in view of the decision of the Board of Directors held in its meeting dated 29.6.2002. However, the observation made by the audit are reproduced as under: "Services of Shri R.KI. Banta, Engineer were taken on deputation from Himachal Pradesh Agro Industries Corporation Limited on usual terms of deputation, Shri R.K. Banta joined his duties in the company on 1st July, 1995. He was posted as Plant Manager in the integrated Carton Plant at Gumma (Pragati Nagar). He was provided residential accommodation at Pragati Nagar as per his status. As he was in possession of residential accommodation, pooled licence fee was required to

be recovered from the salary of the officer. However, it was noticed in audit that instead of recovering licence fee, Shri Banta was paid House Rent allowance @500/-per month admissible to the officers posted at Shimla. It has thus resulted in over payments of House Rent Allowance to the tune of Rs. 21,500/- and non recovery of pooled licence fee of Rs. 4214/-@ Rs. 89/-per month from 1.7.1995 to 31.1.1999. Rules/Orders under which Shri Banta was allowed rent free accommodation together with House Rent Allowance may please be furnished to audit. All such cases may please be reviewed and over payments, if any, may be intimated to audit." The copy of the observation may by the audit are annexed as Annexure R-II. It is further submitted here that the applicant was entitled for HRA @5% of his basic pay as is clear from the notification of the State Govt. dated 2.8.1983 which is Annexure R-III. In view of the above said observations made by the audit, the Board of Director of the Respondent company has decided to initiate recovery against the applicant.

3. It is manifest from the letter dated 19.7.2002, Annexure A-6 that a sum of Rs. 25,714/-(Rupees twenty five thousand seven hundred and fourteen only) is shown to be recoverable from the Petitioner on account of "inadmissible payment of HRA and non recovery of pooled licence fee". However, a perusal of office order dated 29.6.1995, Annexure A-2, would go to show that during the period the Petitioner remained on deputation with Respondent No. 1, he was entitled for House Rent Allowance as admissible in Shimla City. It is further apparent from reply to audit para, Annexure R-II that the following stand was taken by Respondents No. 1 and 2 to the audit objection regarding over payment of House Rent Allowance to the Petitioner:

Services of Shri R.K. Banta, Plant Manager was taken on deputation from HPAIC. No accommodation was allotted to him in plant at Pragati Nagar and he was allowed to stay in transit accommodation. Since no official accommodation was allotted to him. HRA was given to Mr. R.K. Banta as he had retained his accommodation at Shimla.

Hence para may be dropped.

4. In view of the above categoric stand, when even as per Respondents No. 1 and 2 the audit para was required to be dropped, the very basis for recovery of the said sum of Rs. 25,714/-from the Petitioner does not survive.

5. In view of the above, petition is allowed and consequently Annexures A-6 and A-9 are quashed, with no orders as to the costs.

6. The petition stands disposed of, so also pending CMP(s), if any.