

(2009) 01 DEL CK 0238
In the Delhi High Court
Case No : Cont. Cas (C) 14 of 2008

R.S. Mishra

APPELLANT

Vs

Ranglal Jamuda and Others

RESPONDENT

Date of Decision : 21-01-2009

Acts Referred:

Contempt of Courts Act, 1971 — Section 11, 12

Citation : (2009) 01 DEL CK 0238

Hon'ble Judges : Manmohan, J

Bench : Single Bench

Advocate : Party in Person, for the Appellant; S. Rajappa and N.B. Joshi, for the Respondent

Final Decision : Disposed Off

Judgement

Manmohan, J.—The present contempt petition has been filed under Sections 11 and 12 of the Contempt of Courts Act, 1971 alleging willful disobedience by the respondents of the Division Bench judgment and order dated 19th September, 2007 wherein this Court had directed that the petitioner was entitled to double House Rent Allowance (in short "HRA") for the period from 30th October, 2000 to 30th June, 2003. The amount was directed to be paid to the petitioner within eight weeks and if the needful was not done, respondents were directed to pay interest on the said amount at the rate of 12% per annum. The relevant portion of the Division Bench judgment is reproduced hereinbelow:

5. The petitioner is a resident of Gurgaon and, therefore, when his services were terminated at Rajkot, there was no reason or occasion for him to stay at Rajkot. After the termination of his services he had shifted to his residence at Gurgaon and filed writ petition in the High Court of Delhi challenging his termination. From the date of his termination in the year 1988 till October 2000 when orders for reinstatement were passed and he was transferred to Imphal, he remained at Gurgaon, namely, the place of his residence. In this backdrop, in the peculiar facts of this case denying benefit of double HRA to the petitioner on the ground

that his family did not stay at Rajkot during the period he was in Imphal is clearly unjust and unwarranted. The rationale behind grant of double HRA to such employees, who are posted to North-Eastern region or at Andaman and Nicobar Islands, is that on their posting to these difficult stations, they are not expected to take their families along with them. That is the reason why posting to these places is called difficult posting, as it is not normally feasible to keep the families along while working at such stations. In order to ensure that such employees join these difficult stations, the benefit of HRA is extended to their families as well, who are allowed to remain at the last station of posting. It is not in dispute that the petitioner otherwise fulfilled all the conditions for grant of double HRA. When we look into the spirit and rationale behind granting of this benefit, as explained above and also the circumstances in which the petitioner's family could not be expected to be at Rajkot, the petitioner was clearly entitled to the benefit of double HRA. It was the action of the respondent terminating the services of the petitioner way back in 1988 when he was posted at Rajkot that compelled the petitioner to leave that station and come to his home town. The said termination has been found to be illegal and that is why after the judgment of this Court the petitioner was reinstated in service. It would be, in these circumstances, too onerous a condition to compel the petitioner to leave his family at Rajkot and proceed to Imphal in order to get double HRA. We are, therefore, of the opinion that the petitioner was entitled to double HRA for the aforesaid period, i.e. 30.10.2000 to 30.6.2003. We accordingly set aside the judgment of the Tribunal, allow the prayer made by the petitioner in the OA filed before the Tribunal and direct the respondents to give the benefit double HRA to the petitioner for that period. The amount payable shall be worked out within 8 weeks and paid to the petitioner. If the needful is not done within the aforesaid period, the petitioner shall also be entitled to interest on this payment at the rate of 12% per annum.

2. The respondents argued that after the SLP filed by them was dismissed, they issued a cheque dated 25th August, 2008 for an amount of Rs. 61,761/- representing double HRA payable to the petitioner for the period from 30th October, 2000 to 30th June, 2003 along with interest at the rate of 12% per annum. However, the petitioner refused to accept the same on the ground that the respondents have not complied with the Division Bench judgment and order dated 19th September, 2007 inasmuch as they had offered HRA at the Rajkot rate instead of the Delhi rate.

3. The petitioner, in rejoinder, stated that from an overall reading of the entire judgment, it would be apparent that the petitioner was entitled to HRA at Delhi rate. Petitioner also drew the attention of this Court to the fact that the respondents had filed a CM bearing No. 17144 of 2008 before the Division Bench seeking a clarification as to whether the petitioner was entitled to double HRA at the rates applicable to Rajkot or Delhi. However, the said application was dismissed by the Division Bench.

4. After perusing the judgment and order dated 19th September 2007, this Court is of the view that though there was no categorical and specific direction by the Division Bench of this Court to pay double HRA at the Delhi rate but the intent behind the order was that the petitioner would be entitled to double HRA as he had worked in the North-East while his family resided at Gurgaon. Consequently, this Court is of the view that the respondents should pay double HRA to the petitioner at the Delhi rate within a period of eight weeks from today.

5. Since in contempt proceedings, respondents can only be found guilty for willful disobedience and contumacious conduct, this Court is of the considered view that the respondents are not guilty of contempt and, therefore, the notice of contempt is discharged but with the aforesaid direction to pay. With these observations the present petition stands disposed of.