

(1998) 04 AHC CK 0044
In the Allahabad High Court
Case No : C.M.W.P. No. 600 of 1992

Smt. Mukti Ray and others

APPELLANT

Vs

State of U.P. and others

RESPONDENT

Date of Decision : 09-04-1998

Acts Referred:

Constitution of India, 1950 — Article 14
Constitution of India, 1950 — Article 14
Constitution of India, 1950 — Article 14

Citation : (1998) 2 AWC 1510

Hon'ble Judges : D.K. Seth, J

Bench : Single Bench

Advocate : Pradeep Chandra, for the Appellant;

Judgement

D. K. Seth, J.—By the Government Orders dated 15.12.1981, 28.2.1984 and 7.2.1990 (Annexures-1 to 3 to the writ petition), the State Government had decided that if both the husband and wife are in Government service, then only one of them would be entitled for House Rent Allowance, provided they reside in the same house. By the Impugned orders contained in Annexures-4 to 18, the house rent allowance paid to the petitioners who are covered under the said Government Orders and that their spouses are getting house rent allowance, the house rent allowance paid to the petitioners has been sought to be recovered.

2. By an interim order dated 3.1.1992 passed in this writ petition, the said recovery has been stayed and it was directed that the house rent allowance should be paid to the petitioners.

3. The said Government Orders have been challenged on the ground that it is discriminatory inasmuch as while house rent allowance is payable to the husband but it is not been allowed to the wife and that such house rent allowance is payable by reason of Individual right of the petitioners and meant for the benefit of the family. Thus, it appears that the grounds are Inconsistent and are contradictory. If the house rent allowance is meant for the employee and his

family in that event, the house rent allowance received by husband is meant for the accommodation of the wife and vice-versa. Therefore, on that account, the said Government Order cannot be assailed.

4. Now so far as discrimination is concerned, house rent allowance is an allowance for accommodating the employee. When the Government Order has made provision for accommodation of the employee, therefore, house rent allowance paid to her husband which is meant not only for the husband but also for the family, in that event, it cannot be said that a discrimination is being made between male and female.

5. In that view of the matter, I am unable to accept the contention raised in the writ petition with regard to the validity of the Government Orders contained in Annexures-1 to 3 to the writ petition. Therefore, the said Government Orders cannot be held Invalid. Consequently, the orders contained in Annexures-4 to 18 Issued on the basis of said Government Orders are also valid.

6. The writ petition falls and is accordingly dismissed. The Interim order dated 3.1.1992 is hereby discharged. It would be open to the respondents to recover the amount paid on account of house rent allowance to the petitioners in terms of the Government Orders contained in Annexures-1 to 3 of the writ petition as it may deem fit and proper including deduction from the salary payable to the petitioners if they are in service or in any other manner as the respondents may deem fit and proper.

7. There will, however, no order as to cost.