

(2011) 02 DEL CK 0093
In the Delhi High Court
Case No : WPC 8579 of 2009

T.V. Gopalakrishnan

APPELLANT

Vs

Union of India (UOI) and Others

RESPONDENT

Date of Decision : 15-02-2011

Acts Referred:

Citation : (2011) 02 DEL CK 0093

Hon'ble Judges : Suresh Kait, J;Pradeep Nandrajog, J

Bench : Division Bench

Advocate : Rajiv Bakshi and Bhanita Patawari, in WPC 8579/2009, J.B. Ravi, in WPC 2866 and 2920/2010, for the Appellant; M.K. Bhardwaj in WPC 8579/2009, Gaurav M. Liberhan in WPC 2866/2010 and Barkha Babbar in WPC 2920/2010, for the Respondent

Judgement

Pradeep Nandrajog, J.—The three writ Petitioners are employed permanently with Central Reserve Police Force (CRPF) and the claim is for payment of house rent allowance (HRA) for the period reckoned 6 months" after their attachment with the Ministry of Home Affairs till they remained attached with the Ministry of Home Affairs.

2. Whereas the claim of writ Petitioner T.V. Gopalakrishnan and Ashwathachari has yet to be settled and money paid to him, K. Venkatesan was paid HRA @ ` 3,657/- per month from 23.12.2000 till 06.08.2004 i.e. 6 months after his attachment with the Ministry of Home Affairs and till he remained attached to the Ministry, which amount is sought to be recovered in 20 installments from the monthly salary paid to him.

3. Learned Counsel for the Respondent in each case do not dispute that the claim of the Petitioners that when they were attached to the Ministry of Home Affairs no Government accommodation was allotted to them is correct.

4. Thus, the claim of the Petitioners has to be adjudicated on the basis that no official accommodation was provided to them for the periods they remained

attached with the Ministry of Home Affairs. It is also not in dispute that each Petitioner had surrendered the official accommodation allotted to them by CRPF when they were attached to the Ministry of Home Affairs.

5. Each Petitioner had informed the Government that either a Government accommodation be provided to them or house rent allowance should be paid and that in response, two Petitioners Ashwathachari and T.V. Gopalakrishnan it was informed that they were permitted outside living permission but without HRA.

6. Dealing with similarly placed officers of Central Industrial Security Force (CISF), in view of Rule 61 of the CISF Rules, 2001, in the decision reported as 150 (2008) DLT 420 Jaspal Singh Maan v. UOI and Ors. 150 (2008) DLT 420 a coordinate Division Bench of this Court had held that it was the duty of the Government to provide either residential rent free accommodation or house rent allowance in lieu thereof. The Division Bench noted decisions of the Supreme Court on the point that house rent allowance and city compensatory allowance are not concessions but form a component of the total salary and are part of a service condition.

7. In an unreported decision dated 17.05.2010 in W.P.(C) 20700/2005 Hari Om Mudgil v. UOI and Ors. W.P.(C) 20700/2005, pertaining to a CRPF Sub-Inspector attached to RAF Indira Gandhi Airport and not paid house rent allowance after 6 months of joining and till he remained attached, the writ petition was allowed directing house rent allowance to be paid.

8. Suffice would it be to state that transfer, posting and attachment to the cadre controlling Ministry is not in the hands of the Jawans of CRPF and thus we see no reason why house rent allowance be not paid to them if the department to which they are attached does not provide residential accommodation to them. It would be a most arbitrary situation if these Jawans remain with CRPF they would either be provided a residential accommodation or in lieu thereof would be paid house rent allowance and upon the fortuitous circumstance, not of their desire, on being attached to a public sector undertaking or the cadre controlling Ministry would lose said benefit.

9. The writ petitions accordingly stand disposed of restraining the Respondents from effecting any recovery from K. Venkatesan and issuing a mandamus to the Respondents to pay Ashwathachari and T.V. Gopalakrishnan house rent allowance for the period reckoned after 6 months of their attachment with the Ministry of Home Affairs till they remained attached with the said Ministry. The amount be paid over to them within 12 weeks from today.

10. No costs.