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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C) 4096/2014**

VINOD KUMAR SAXENA

.....Petitioner

Through: Mr. Hanu Bhaskar with Mr. Aakash
Singh, Advocates.

versus

THE MANAGEMENT OF ASHOKA HOTELSRespondent

Through: Mr. Karvnesh Tandon, Mr. Abhishek
Singh and Mr. Siddharth Jain, Advs.

CORAM:

HON'BLE MR. JUSTICE ANISH DAYAL

ORDER

29.04.2025

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1. The issue concerns the illegal deduction of the House Rent Allowance ('HRA') which had been paid to the petitioner who was an employee of Ashoka Hotel from 1970 till 2001. This deduction was made after 31 years on the pretext that in 1974, the petitioner got married and his wife was holding the job of a Telephone Operator at *Rashtrapati Bhavan* and therefore, was given government accommodation in which he started staying with her.
2. Considering this aspect was allegedly concealed by the petitioner, a charge was framed and an inquiry was conducted, which exonerated the petitioner in that regard, only with respect to the concealment.
3. The issue then arose of the deduction itself with respect to which a claim was filed before the Industrial Tribunal which resulted in an award dated 8th September 2006 holding the deduction to be legal and justified.



4. This was challenged in **W.P (C) 3375/2007** by the petitioner before this Court and an order of 4th October 2012 was passed noting the submissions of the petitioner and concluded that the petitioner was not given a fair opportunity of hearing before the HRA was deducted. Accordingly, the said order was passed:

9. The writ petition filed by the Petitioner will be treated as a representation by the Respondent who will decide the said representation on all issues raised therein within 8 weeks. Learned counsel for the Petitioner and Respondent state that General Manager Hotel would be the competent authority to decide the representation of the Petitioner. A personal hearing will be afforded to the Petitioner by the GM Hotel who will conduct an enquiry into aspects raised, look into the rules, regulations and issue of discrimination as well and pass a speaking order.

5. Consequently, order dated 06th December 2012 was passed by the General Manager of Ashoka Hotel which is impugned herein. As per the said order, the claim of petitioner on all these respects was rejected.

6. Counsel for petitioner submits that *firstly*, the order dated 4th October 2012 had directed an inquiry to be held which was not done, though he was called personally, but it did not decide on the issues which were articulated by this Court; *secondly*, that the General Manager did not look into the rules and regulations and ignored the fact that the petitioner was appointed by Ashoka Hotel and not ITDC (*India Tourism Development Corporation*) by appointment letter dated 10th September 1970 and, therefore, the ITDC Rules will not be applicable; *thirdly*, the petitioner had claimed that he ought



to be on parity with three other persons for whom no such decision was taken in similar circumstances; however, by the impugned order the issue was left open and the 16 persons which were refereed in the order were not employed with Ashoka; *fourthly*, two limbs of argument was taken on limitation in that the deduction was made after 31 years without Show Cause Notice (which position is admitted even in the order of 06th December 2012) and that assuming that the HRA was wrongly given, without conceding the same, the deduction could only be for three years at best; *fifthly*, considering it was a labour dispute which was pending before the Industrial Tribunal, the service conditions couldn't have been changed, however the HRA continued to be deducted in the interregnum; for this, he refers to the chart at PDF 133 of the court file; *sixthly*, the petitioner was admittedly married in 1974; however, deductions have been from 1970; the deductions amount to total of about Rs. 3.18 lakhs.

7. Counsel for respondent refuted these submissions by submitting that, *firstly*, that no HRA is claimed post 2001 by petitioner and, therefore, if he was so adamant in that the rules of ITDC/CCS don't apply to him, he should have continued to claim so; *secondly*, that the petitioner did not object at any time point of time to the ITDC Rules issue and more importantly did not assert that any rules through an Ashoka appointment applied to him; *thirdly*, on the issue of limitation, respondent's counsel stated that the fraud vitiates everything and no limitation would be applicable; *fourthly*, on the issue of protected workmen, he said the same would be only during the ID Act; however, the deductions were made for a full period when HRA had been claimed by him and paid to him; *fifthly*, the order of 11th July 2014 was pointed out where a notice was issued on a limited question of computation



of the amount to be recovered from the petitioner and, therefore, he stated the scope of adjudication need to be restricted only to that extent.

8. Two aspects which have been asserted by both parties relate to the applicability of the rules of ITDC /Government to the employees of Ashoka post the amalgamation in 1966.

9. Both counsels have not been able to produce anything on record which would assist this Court in understanding as to what were the amalgamation terms in respect of the employees of Ashoka Hotel

10. Also regards, issue of computation of the amount recovered from the petitioner is still ambiguous, in that while the petitioner claims it's from 1970 to 2001, while counsel for the respondent has not committed itself to any computation in this regard.

11. Counsel for respondent shall, therefore, revert on the next date on both the issues of the amalgamation rules and the computation.

12. List on 22nd May 2025.

13. Order be uploaded on the website of this Court.

ANISH DAYAL, J

APRIL 29, 2025/RK