

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
CIVIL APPEAL No.646 OF 2005

CHIEF POSTMASTER GENERAL SHILLONG

.....APPELLANT

VERSUS

LALHULIANA & ORS

.....RESPONDENTS

O R D E R

This appeal is directed against order dated 25.04.2003 passed by the Division Bench of the Gauhati High Court in Writ Petition No.2955 of 2003 whereby the appellant's challenge to order dated 12.04.2002 passed by Central Administrative Tribunal, Gauhati Bench (for short, 'the Tribunal') in O.A.No.381 of 2000 was negatived.

The claim lodged by the respondents for grant of House Rent Allowance at par with the employees posted in Gauhati (Assam) and Kohima (Nagaland) was decided by the Tribunal vide order dated 12.4.2002 in the following terms:

"5. In view of the position enumerated above, I am of the view that the applicants are entitled to House Rent Allowance at the rate prescribed for B class cities to the Central Government employees which should be payable to the applicants at the rate of 15% from 1.1.1986 to 30.9.1986 and from 1.10.1986 to 30.9.1986 and from 1.10.1986 at flat rate prescribed under O.M. dated 7.8.1987 read with another O.M.dated 13.11.1987 and the Notification GSR No.623(E) amending the Fundamental Rule 45A with effect from 1.7.1987.

As regards the claim for compensation in lieu of Rent Free Accommodation the respondents are to act in conformity with the Office Memorandum No.12-11/60-ACC-I dated 2.8.1960, O.M.dated 23.2.1986 and 22.5.1987 and also to O.M.dated 13.11.1987. The respondents shall examine the each case on merits and thereafter shall pass necessary order in individual cases. Rent free unfurnished accommodation is admissible to Central Government employees having all India transfer liability only those who are posted in Mizoram or HRA at the rate prescribed from time to time. Compensation and admissible HRA shall be granted to those persons who are entitled to rent free accommodation and could not be provided accommodation and the above benefit shall be granted only to the Central Government employees having all India Transfer liability and posted in Mizoram vide letter No.11015/1/E(B)/76 dated 31.7.1977. The respondents shall examine the individual cases and thereafter pass necessary orders in those cases, others will not be eligible for the same."

The Division Bench of the High Court dismissed the writ petition filed by the appellant and approved the order of the Tribunal by recording the following observations:

"Therefore, the observations recorded by the Tribunal with regard to entitlement become nugatory in the sense that the case of each and every employees will have to be considered in terms of the aforesaid Memoranda and not otherwise. That apart, employees posted at Aizwal, Headquarters of the State of Mizoram,

being a C-Class city, may not be entitled to HRA as prescribed for B-class cities. It is submitted by Sri Choudhury, learned senior counsel, that the employees stationed at Shillong and Kohima, which are also C-Class cities, have been extended with the benefit of HRA and Compensation at par with the employees posted in B-Class cities. Appropriate orders in this direction will have to be passed/issued by the Central Government so as to enable the employees stationed at Aizwal to get HRA and Compensation in lieu of Rent Free Accommodation.

Consequent upon the above submissions, this appeal is disposed of with the observation that the direction given by the learned Tribunal in the last part of the judgment quoted above shall be complied with by the Central Government after taking due consideration of the observations recorded by us hereinabove. A decision in this regard shall be taken by the Central Government as expeditiously as possible preferably within a period of six months."

Shri P.P. Malhotra, learned Additional Solicitor General made submissions for some time and then fairly stated that the appellant does not want to pursue its challenge to the direction contained in first part of paragraph 5 of the Tribunal's order. He, however, questioned the directions given by the Tribunal on the issue of payment of compensation in lieu of House Rent Allowance by arguing that the same is contrary to the judgment of this Court in Union of India and others vs. M.Lepdon AO and others (2001) 8 SCC 375.

Shri P.N.Misra, learned senior counsel appearing on behalf of the respondents submitted that the direction given by the Tribunal for consideration of the cases of his clients for payment of City Compensatory Allowance is innocuous and approval thereof by the High Court does not suffer from any patent legal infirmity.

We have thoughtfully considered the submissions of the learned counsel. In our view, the direction given by the Tribunal, which has been confirmed by the High Court, merely ordains consideration of the cases of each employee for grant of City Compensatory Allowance in accordance with O.M. dated 02.08.1960, O.M.dated 23.02.1986 and 22.5.1987 as also O.M.dated 13.11.1987 and nothing more. Therefore, the impugned order as also the one passed by the Tribunal do not call for interference by this Court under Article 136 of the Constitution.

With the above observation, the appeal is dismissed.

However, it is made clear that if the Government of India has issued fresh instructions after 13.11.1987 then the cases of the respondents shall be considered in accordance with the latest instructions.

.....J.
(G.S.SINGHVI)

.....J.
(V. GOPALA GOWDA)

NEW DELHI;
JULY 17, 2013.

ITEM NO.108

COURT NO.3

SECTION XIV

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS
CIVIL APPEAL NO(s). 646 OF 2005

CHIEF POSTMASTER GENERAL SHILLONG

Appellant (s)

VERSUS

LALHULIANA & ORS

Respondent(s)

(With appln(s) for taking additional document on record and impleadment as petitioner and permission to file additional affidavit and with prayer for interim relief)

Date: 17/07/2013 This Appeal was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE G.S. SINGHVI
HON'BLE MR. JUSTICE V. GOPALA GOWDA

For Appellant(s) Mr.P.P.Malhotra, ASG
Mr.Rakesh K.Khanna, ASG
Mr.Baldev Atrey, Adv.
Mr.Chetan Chawla, Adv.
Mr. V.K. Verma,Adv.

For Respondent(s) Mr.P.N.Misra, Sr.Adv.
Mr. Kedar Nath Tripathy, Adv.

UPON hearing counsel the Court made the following
O R D E R

The application for impleadment is allowed.

The appeal is dismissed in terms of the signed order.

(Satish K.Yadav)
Court Master

(Usha Sharma)
Court Master

(Signed order is placed on the file)