

**IN THE HIGH COURT OF MANIPUR
AT IMPHAL**

WP(C) No.243 of 2020

J S Chauhan, CRPF (IRLA-6189) age 56 years S/O
Sh. Satya Pal Singh, resident of Flat No. 102, B-1/67,
Sai Sadan – II Swak Park, Uttam Nagar, New Delhi,
presently posted as 2-IC 32 Bn CRPF, NHPC Project
Zero Colony Kaomkieru Loktak, PO & PS – Loktak,
Churachandpur District, Manipur PIN 795124.

...Petitioner

-Versus-

1. The Union of India, through the Secretary,
Ministry of Home Affairs, Government of India,
North Block, New Delhi-110 001.
2. The Director General of Police, CRPF, Head
Quarters
CGO Complex, New Delhi- 110 003.
3. The Director (Accts), Pay & Accounts Office,
CRPF,
Plot No. 14, PSP-2, Rohini Sector-23,
New Delhi-110086
4. Inspector General of Police, Manipur & Nagaland
Sector, CRPF GC Campus, Langjing, Imphal,
Manipur-795 113

5. DIG (Adm) CRPF, GO's Entitlement Cell,
Directorate CGO Complex, Lodhi Road, New
Delhi – 110003

...Respondents

WP(C) No.508 of 2020

Shri Vinod Sawant, CRPF (IRLA-7070) age 37 years
S/o Sh. Lal Singh, presently posted as Deputy
Commandant, 109 Bn. Mongsangei, PO Chanchipur,
Imphal West, Manipur – 795 003.

...Petitioner

-Versus-

1. The Union of India, through the Secretary, Ministry of
Home Affairs, Government of India, North Block, New
Delhi-110 001
2. The Director General of Police, CRPF, Head
Quarters, CGO Complex, Lodhi Road , New Delhi-
110 003
3. The Director (Accts), Pay & Accounts Office, CRPF,
Plot No. 14, PSP-2, Rohini Sector-23, New Delhi-
110086
4. Inspector General of Police, ADM DTE CRPF, CGO
Complex, Lodhi Road, New Delhi- 110 003
5. Asst. Director (Adm/Accts), ADM DTE CRPF, CGO
Complex, Lodhi Road, New Delhi- 110 003

6. The AC, GO's Entitlement Section, East Block No. 9,
Level-2, Sector-1, RK Puram, New Delhi – 110 006

HON'BLE MR. JUSTICE M.V. MURALIDARAN

For the Petitioners :: Mr. K. Roshan, Advocate in
WP(C) No. 243 of 2020;
Mr. A. Mohendro, Advocate in
WP(C) No. 508 of 2020

For the Respondents :: Mr. S. Vijayanand Sharma,
Sr.PCCG

Date of Hearing and
reserving Judgment & Order :: 20.12.2022

Date of Judgment & Order :: **10.01.2023**

JUDGMENT AND ORDER
(CAV)

The prayer in W.P.(C) No.243 of 2020 is as
follows:

*“Admit the Writ petition and issue Rule Nisi
calling upon the respondents to show cause
as to why a Writ/order/directive(s) should not
be issued for quashing and setting aside the
stoppage of HRA given to the Petitioner with
effect from 16.2.2019, as it was done without
due process of law and without issuing any
order and violation of Principle of Natural
Justice and stoppage is against the OM issued*

by the Ministry of Finance, in the facts and circumstances;

To show cause as to why a Writ in the nature of Mandamus or any other appropriate writ/order/directive(s) should not be issued directing the Respondents to pay the HRA in terms of the Sanction order dated 21.2.2019 issued by the Commandant – 32 Bn CRPF, Loktak, Manipur and also directed the respondents to pay the illegal recovery amount of Rs.27,827/ to the petitioner;

Make the Rule absolute;

To pass any appropriate order or direction(s) which may be appropriate to be passed under such facts and circumstance of the instant case, for the ends of justice.”

2. The prayer in W.P.(C) No.508 of 2020 is as follows:

“To admit the Writ Petition, call for the records of the case and issue rule nisi calling upon the Respondents to show cause as to why the prayer prayed for by the Petitioner should not be granted. And, after hearing them your Lordships may make the rule absolute;

To issue a writ in the nature of mandamus/certiorari or any other appropriate writ thereby quashing the letter dated 27.2.2020 and to direct the concerned respondents to release the HRA entitled to the petitioner with effect from 13.8.2019 in terms of the Sanction order dated 3.9.2019 issued by the Commandant 109 Bn., CRPF, Mongsangai, Imphal West, Manipur;

To direct the concerned respondents to release the HRA entitled to the petitioner w.e.f. 13.8.2019 along with 6% interest per annum;

To direct the concerned respondents to refund the amounts deducted from the salary of the petitioner without giving any reason/clarification;

To direct the concerned respondents to consider the letter dated 6.3.2020 submitted by the petitioner to the IGP(ADM) DTE, CRPF (through proper channel) within a stipulated timeframe by issuing necessary speaking order;

To pass any other appropriate order(s) or direction(s) that this Hon'ble Court deem fit and proper; and

To award cost of the Petition to the Petitioner."

3. Since the grounds raised and relief sought in the writ petitions are similar, both the writ petitions were heard together and are being disposed of by this common order.

4. The case of the petitioner in W.P.(C) No.243 of 2020 is that he was remained posted in 103 Bn RAF/CRPF, New Delhi by drawing HRA with his pay and after completing his tenure period of posting at 103 Bn, the petitioner was transferred to 32 Bn CRPF, Loktak, Churachandpur District, Manipur. Pursuant to the transfer order dated 29.1.2019, he reported duty at 32 Bn and the Commandant, 32 Bn had also taken him in the strength of the unit with effect from 15.2.2019. Vide order of the Commandant, 32 Bn, a sanction was accorded for his entitlement of HRA and was also drawing his HRA with his pay regularly with effect from 15.2.2019 without any interruption till March, 2020. However, in the month of April, 2020, the respondent authority without giving any opportunity of hearing and without issuing any recovery order, recovered a sum of Rs.27,827/- from the petitioner's pay and also stopped the HRA of Rs.22,584/-. After knowing the stoppage of HRA and recovery of Rs.27,827/-, the petitioner has submitted a representation on 25.4.2020 to the competent authority.

Despite the receipt of the said representation, the same has not been considered till date. Hence, the writ petition.

5. Resisting the writ petition, the respondents filed affidavit-in-opposition stating that on checking of dues being drawn by officers, it was found that many officers whose Notional HQ (i.e. Group Centre) is not situated in North Eastern region (for short, "*NE region*") are also drawing HRA at the rates applicable to their previous headquarters. Accordingly, all HRA drawal cases were reviewed and all those officers, whose detachment headquarter is in NE region but their notional headquarter is away from NE region, were stopped and recovery of irregular HRA was scheduled in equal instalments. It is stated that the HRA case of the petitioner Chauhan was of similar nature as his notional headquarter is GC CRPF Kathgodam (Uttarakhand) and detachment headquarter is in NE region and, therefore, his HRA was found irregular and stopped from month of April 2020 and recovery of irregular HRA already drawn for period from 16.2.2019 to 31.3.2020 amounting to Rs.2,78,263/- was booked in 10 equal instalments for recovery @ Rs.27,827/- per month from the pay of April 2020. It is stated that the representation of the petitioner has been examined by the DIG (Adm) Dte. General vide their signal dated 12.5.2020

and passed an order to recover the HRA amount in 20 equal instalments instead of 10 instalments and the same has been conveyed to the petitioner through Commandant 32 Bn.

6. The case of the petitioner in W.P.(C) No.508 of 2020 is that after completing his tenure period of posting at DG, CGO, Lodhi Road, New Delhi, the petitioner was transferred on 25.7.2019 to 109 Bn. located at Imphal and upon report, the petitioner has been taken into 109 Bn. with effect from 13.8.2019. According to the petitioner, while posted at DG, Headquarters, Delhi as Deputy Commandant (CR&VIG) from January, 2014 to August 2019, he was allotted Government quarters from 16.10.2014 to 12.6.2019. The petitioner vacated the Government accommodation and shifted his family members to a rented accommodation at Delhi-85. Vide order dated 3.7.2019, the DIG (Adm) Dte issued sanction order according for drawing HRA with effect from 13.6.2019. Although the sanction order was issued, the petitioner has failed to receive the HRA since September 2019 and he was informed deduction of Rs.26,807/- from the salary of September, 2019 without disclosing any reason. The stoppage of HRA with effect from September 2019 is against the Office Memorandum and

the same is illegal, arbitrary and unreasonable. Hence, the writ petition.

7. The respondents 1 to 6 filed affidavit-in-opposition stating that on his reporting, the petitioner has been sanctioned HRA at 24% with effect from 13.8.2019 vide 109 Bn. sanction order dated 3.9.2019 for residing his family at House No.60-61, Third Floor, BLK, a-Pkt-3 Sector-16, Rohini City, Delhi-85. It is stated that the officer/personnel who are posted to NE region from outside of NE region but kept their family at the last place of posting are entitled to HRA of the old duty station. However, officer/personnel posted in a unit deployed in NE region, the notional Headquarter i.e. GC of which is situated outside of NE region are not entitled for grant of HRA at the last place of posting. It is stated that no such order exists to grant HRA to those personnel who is posted in a unit deployed in NE region but kept their family at the last place of posting without linking his notional Headquarter i.e. GC. Therefore, on receipt of 109 Bn. sanction order dated 3.9.2019, the office of DIG (Amn) has not drawn the sanctioned HRA to the petitioner in the light of clarification/direction and the same has been intimated to 109 Bn. on 27.2.2020 which has further been communicated to the petitioner through Commandant, 109 Bn. vide endorsement

dated 20.03.2020. It is stated that the personnel posted in those Units which are deployed in NE region but their notional Headquarter i.e. GC are situated outside of NE region, are not entitled for grant of HRA at the last place of posting. No order has so far been received from the Government of India to grant of HRA to the personnel posted in unit deployed in NE region and kept their family at last place posting without linking his notional Headquarter. Further, the petitioner prior to his posting as Deputy Commandant (Legal) M&N Sector Headquarter, Imphal was posted in 109 Bn. as Deputy Commandant.

8. Assailing the impugned stoppage of HRA and recovery of Rs.27,827/-, Mr. A. Mohendro, the learned counsel for the petitioner in W.P.(C) No.243 of 2020 submitted that the petitioner was drawing HRA as per the sanction order dated 21.2.2019 till March 2020 without any interruption, as the petitioner has been posted at NE region. He would submit that HRA was being drawn to the officer as per the admissibility by PAO of Government of India, but after taken over of entitlement section by CRPF, point of notional HQ (GC) raised at their own which is nowhere mentioned in the order of the Government of India.

9. The learned counsel further submitted that the petitioner came to know from his pay slip for the month of April 2020 that his HRA was stopped and recovery of total amount of Rs.2,78,263/- was made and recovery instalment of a sum of Rs.27,827/- per month for 10 instalments started without any recovery order to the petitioner or did not cancel the sanction order dated 21.2.2019 issued by the Commandant, 32 Bn. The said act is illegal and malafide and violation of Office Memorandum of the Ministry of Finance, Department of Expenditure for granting benefit to the Central Government employees employed in the NE region, whereas the petitioner is now posted at 32 Bn., which is under the NE region and therefore, the petitioner is entitled for the benefit of HRA.

10. The learned counsel for the petitioner urged that the petitioner has been transferred from 103 Bn. to 32 Bn. and is still keeping his family at the last place of posting i.e. Delhi. Hence, the stoppage of HRA and recovery ordered to be made is illegal.

11. The learned counsel for the petitioner then submitted that the respondents are twisting the issue and misinterpreting the rules/orders of the Government at their

whims and do not try to understand the spirit of granting NE concession extended under the Government policy. The learned counsel added that most of the CRPF battalions whose Group Centres are located in NE region are deployed outside the region. But these battalions are not allowed NE concessions though its affiliated GC are located in NE region and that it is clear that presence in the NE region of an employee is mandatory for granting NE region benefits.

12. The learned counsel appearing for the petitioner in W.P.(C) No.508 of 2020 submitted that as per the Office Memorandum dated 22.1.2019, HRA is entitled to the CRPF personnel on their transfer to non-family location viz., North Eastern Region, Sikkim, Andaman & Nicobar Island, Lakshadeep island, J&K and left wing extremist area and there cannot be a classification whether the headquarters are within the NE region or not. The petitioner who is posted at non-family location at NE region is very much entitled to HRA in terms of Office Memorandum dated 22.1.2019.

13. The learned counsel further submitted that the petitioner Vinod Sawant has been again transferred vide signal dated 13.7.2021 from 109 Bn. to M&N Sector Headquarters with

effect from 13.9.2021 and the petitioner has been taken on the strength of Manipur and Nagaland Sector Headquarters vide signal dated 20.9.2021. He would submit that on 27.9.2021, the petitioner submitted an application to the office of M&N Sector Headquarters for sanction of HRA for his last place of posting i.e. Delhi mentioning that headquarter of the petitioner is now situated in North East only and hence, he is entitled for HRA of last place of posting. However, vide letter dated 21.10.2021, the petitioner has been informed that he was not drawing HRA at old station.

14. Mr. S. Vijayanand Sharma, the learned Sr.PCCG for the respondents submitted that HRA is a headquarter based allowance and that the petitioners are posted at the duty Bn. whose notional headquarters are situated outside the present place of posting. As such, the petitioners are not entitled for HRA. Further, the HRA is given to an employee in case Government Provided Residential Accommodation is not available to him. Since the petitioners are given GPRA, they are not entitled to claim HRA in the present place of posting. The petitioners could only avail the allowance under additional HRA scheme and not regular HRA.

15. The learned counsel for the respondents further submitted that the petitioner in W.P.(C) No.508 of 2020 vacated his GPRA on his own on 12.6.2019 whereas vide signal dated 6.5.2029, he has been transferred from Dte. General to 109 Bn. Since the petitioner in W.P.(C) N.508 of 2020 vacated his GPRA within the retention period of three years, he is not eligible to claim for the benefit of additional HRA. Similarly, the petitioner in W.P.(C) No.243 of 2020 was transferred from 103 Bn. to 32 Bn. vide signal dated 25.7.2018 and that the petitioner applied for HRA while being posted in 32 Bn. for his previous place of posting and sanction order was passed vide order dated 21.2.2019. Since the said sanction order is not in consonance with the rules, it was stopped by the respondent authority. Further, the petitioner in W.P.(C) No.243 of 2020 has applied for the additional HRA before completion of the retention period of three years as stipulated in the rules.

16. The learned counsel for the respondent urged that since both the petitioners are posted at duty battalion whose notional headquarters are situated outside the State of Manipur and HRA being a headquarter based allowance, the petitioners are not entitled to claim for HRA.

17. This Court considered the rival submissions and also perused the materials available on record.

18. The grievance of the petitioner in W.P.(C) No.243 of 2020 is that he is a second in command and after completion of his tenure period he was transferred from 102 Bn. New Delhi to 32 Bn at Loktak, Manipur and after relieving from 103 Bn., the petitioner joined his new posting at 32 Bn. on 15.2.2019 and at 32 Bn., he was sanctioned HRA vide order dated 21.2.2019 and was enjoying till March, 2020. However, the respondent authorities without giving any opportunity to the petitioner, stopped payment of HRA and also started recovery in 10 instalments with effect from 16.2.2019 to March, 2020 at the rate of Rs.27,827/-. However, pursuant to the interim order of this Court, the recovery was not effected. Thus, a prayer has been made to direct the respondents to pay the HRA with effect from April, 2020 and also to refund the recovery amount, if any, to the petitioner.

19. Similar is the grievance made by the petitioner in W.P.(C) No.508 of 2020, who contended that he was posted at the Directorate General, CGO Complex as Deputy Commandant (CR & VIG) from January, 2014 to August, 2019

and after completing his tenure period of posting at DG, CGO, New Delhi, vide transfer order dated 25.7.2019, he was transferred to 109 Bn. at Mongsangai, Manipur. According to the petitioner, while he was at DG, New Delhi, the GPRA quarters allotted to him was vacated and shifted his family to a rented accommodation at Delhi and also the DIG (Adm) Dte. had issued sanction order dated 3.7.2019 for drawing HRA with effect from 13.6.2019. According to the petitioner, on reporting at the new station, the petitioner requested the authority for sanction of HRA of his last place of posting and the Commandant, 109 Bn. had also issued sanction order dated 3.9.2019 for drawing HRA. When the order copy was forwarded to the Director Accounts, PAO, CRPF, New Delhi for needful action for drawal of HRA, his claim was returned stating that no such order received from the Government of India to grant HRA to the personnel posted in unit deployed in NE region and kept their family at last place of posting without linking his notional headquarter i.e. Group Centre. Thus, a prayer has been made to quash the letter dated 27.2.2020 and to release the HRA entitled to the petitioner with effect from 13.8.2019 in terms of the sanction order dated 3.9.2019 and to refund the amount, if any, deducted from the salary of the petitioner.

20. On the other hand, it is the say of the respondents that in the case of the petitioner in W.P.(C) No.243 of 2020, he was transferred from 103 Bn. to 32 Bn., Manipur. While the petitioner was posted at 32 Bn., he had applied for HRA for his previous place of posting and sanction order was issued on 21.2.2019. After finding that the said sanction order was not in consonance with the rules, it was stopped by the respondent authorities. As far as the petitioner in W.P.(C) No.508 of 2020 is concerned, it is the say of the respondents that the petitioner had vacated his GPRA on his own on 12.6.2019, whereas vide signal dated 6.5.2019, he has been transferred from Dte. CG to 109 Bn. Since the petitioner had vacated his GPRA within the retention period of three years, he is not eligible to claim HRA.

21. The respondents urged that since the petitioners are posted at duty battalion whose notional headquarters are situated outside the State of Manipur and HRA being headquarter based allowance, the petitioners are not entitled to claim for HRA. Even if the argument of the petitioners qua claim of HRA is considered on the ground of being posted at non-family station i.e. Manipur, since both the petitioners are provided with GPRA, they are not entitled to claim HRA at the present place of posting. Further, even if the petitioners are

entitled to claim for HRA or additional HRA for their previous place of posting, they ought to have claimed the HRA or additional HRA within the retention period of three years and, as such, violated the eligibility criteria to claim HRA or additional HRA.

22. As could be seen from the records, in the case of the petitioner in W.P.(C) No.508 of 2020, a sanction order was issued by the DIG (Adm) Dte according sanction to the petitioner for drawal of HRA at the rate applicable in X Class cities i.e. 24% of basic pay with effect from 13.6.2019. On a perusal of the pleadings, it is clear that pending writ petition, the petitioner was again transferred to M&N Sector headquarters from 109 Bn. vide order dated 13.7.2021 with effect from 13.9.2021 and he has been taken on the strength of Manipur and Nagaland Sector headquarters. On 27.9.2021, the petitioner in W.P.(C) No.508 of 2020 had also submitted his application for sanction of HRA for his last place of posting i.e. Delhi mentioning that the headquarter is now situated in NE only and, therefore, he is entitled for HRA of last place of posting. This has not been refuted by the respondents. In fact, as could be seen from the records, vide letter dated 21.10.2021, the petitioner in W.P.(C) No.508 of 20202 has been informed that

he was not drawing HRA at old station. Hence, the last station HRA amount is not known and, therefore, the fixed amount of HRA of last station under NE provisions could not be sanctioned to him. It was also informed that when his HRA at last place of posting i.e. 109 Bn. is drawn, he may submit his claim for drawing old station headquarter HRA in this headquarter for sanction.

23. At this juncture, it is pertinent to note that the respondent authorities adopted two yardsticks for drawing the entitled HRA in the case of the petitioner in W.P.(C) No.508 of 2020. Earlier, the department had refused the HRA of the petitioner on the ground that the headquarter of him is situated outside NE. Now the petitioner has been posted to M&N Sector headquarter which is located in NE, the M&N Sector has raised an objection that only on drawal of HRA at 109 Bn., his subsequent drawal will be considered. The aforesaid objection raised by the respondent authorities is arbitrary in nature for the simple reason that the respondent authorities without applying their mind have come to such conclusion.

24. As far as the claim of the petitioner in W.P.(C) No.508 of 2020 for sanction and drawal of HRA at 109 Bn. is

concerned, while the petitioner was posted at DG, CGO, New Delhi, a Government quarters was allotted to him where he resided from 16.10.2014 to 12.6.2019 and had vacated the said quarters on transfer to 109 Bn. and shifted his family to a rented accommodation at Delhi. Accordingly, he was issued with sanction order vide order dated 3.7.2019 for drawing HRA with effect from 13.6.2019. On reporting at 109 Bn., when the petitioner requested for sanction of HRA of his last place of posting, the Commandant, 109 Bn. had also issued sanction order on 3.9.2019 for drawing HRA and a copy of the sanction order forwarded to DG, CGO for drawal of arrear HRA. However, vide impugned letter dated 27.2.2020, the DG, CRPF, New Delhi returned the claim by stating as under:

“A clarification on the subject was sought from DIG (Adm) Dte., in reply, DIG (Adm) Dte, vide their ION No.H.III.1/2019-20/DA-IV dated 12/1/2020 has intimated that no such orders so far received from Gol/MHA to grant of HRA to the personnel posted in unit deployed in NE region and kept their family at last place of posting without linking his notional headquarter i.e. Group Centre. As and when it has been received from Gol/MHA, the same will be provided. Copy

of this letter is enclosed herewith for your further needful. Hence, HRA sanction order in respect of Shri Vinod Sawant, D/C (IRLA-7171) of your unit is returned herewith. Officer may be informed accordingly.”

25. The Office Memorandum dated 22.1.2019 issued by the Ministry of Home Affairs, Government of India, provides as under:

“The undersigned is directed to say that a proposal for grant of HRA of Old Station/Selected Place of Residence, in addition to the HRA admissible at the new place of posting, to CAPF personnel on their transfer to non-family locations, viz., North Eastern Region, Sikkim, Andaman & Nicobar Islands, Lakshadweep Islands, State of Jammu & Kashmir and Left Wing Extremist (LWE) areas, in the event of their vacation of Government accommodation retained by them after three years, as per Ministry of Housing & Urban Affairs OM No.12035/4/2015-Pol.II dated 14.11.2017 and 01.08.2018, till they remain posted in such non-family stations, was examined in this Ministry in consultation with Ministry of

Finance (Department of Expenditure), and it has agreed to:-

(i) allow HRA, on vacation of the Government accommodation by families of CAPF personnel after 3 years retention period, who are posted in non-family stations/locations (as defined by M/o Housing & Urban Affairs in their OM dated 01/08/2018), in addition to the HRA admissible at the new place of posting.

(ii) relax the mandatory provision of keeping families of CAPF personnel at last place of posting for allowing HRA at the rate of Selected Place of Residence.

2. This issues with the approval of Ministry of Finance (Department of Expenditure), vide their ID No.28/2/2018-E.II(B) dated 18.01.2019 and as vetted by integrated Finance Division of this Ministry vide their Dy No.3437419 dated 22.01.2019.”

26. The petitioner in W.P.(C) No.508 of 2020 contended that the Government quarters was allotted to him while he was at DG, CGO and he and his family members

resided in the said quarters from 16.10.2014 to 12.06.2019 and thereafter, vacated the said quarters and shifted his family to a rented house at Delhi. Thus, as per the Office Memorandum dated 22.1.2019, the petitioner in W.P.(C) No.508 of 2020 is entitled to receive HRA along with additional HRA, as he has been transferred to North Eastern region from DG, CGO, New Delhi to 109 Bn., Manipur and also he had vacated the Government quarters after three years retention in compliance to the Office Memorandum dated 22.1.2019.

27. Coming to the case of the petitioner in W.P.(C) No.243 of 2020, the only contention of the respondents is that the petitioner being posted in battalion in NE region is treated as on tour and not eligible for NE concession as headquarter of the battalion is Group Centre, Kathgodam which is located outside NE region. The aforesaid contention of the respondents cannot be appreciated for the reason that while granting the concession the only criteria laid down by the Government is posting of a person in NE region. The purpose to attract and retain services of the person in NE region and the issue of headquarter of a person is nowhere mentioned in the Office Memorandum/Government Order.

28. Admittedly, the petitioner in W.P.(C) No.243 of 2020 is not on tour as he was posted to 32 Bn., Lokatak, Manipur on transfer from 103 Bn., New Delhi. The CRPF personnel are posted in a battalion for years and minimum tenure has been laid down in the transfer policy. Therefore, there is no question of treating such long tenure as on tour.

29. The Commandant, 32 Bn. issued a sanction order dated 21.2.2019 for the entitlement of the petitioner for drawal of HRA and as per the sanction order dated 21.2.2019 and the petitioner was drawing his HRA with his pay regularly with effect from 15.2.2019 without any interruption till the month of March, 2020. However, in the month of April, 2020, the respondent authorities without giving any prior notice or opportunity of hearing cancelled the sanction order dated 21.2.2019 and directed to recover a sum of Rs.27,827/- from the petitioner's pay and also ordered to stop HRA amount of Rs.22,584/-. After knowing the stoppage of HRA and recovery, on 25.4.2020, the petitioner has submitted a representation to the respondent authorities and, admittedly, the said representation has not been considered till date.

30. It is apposite to mention that the Ministry of Finance, Department of Expenditure, issued an Office Memorandum dated 14.8.2018 for grant of additional HRA to the civilian employees of the Central Government serving in the States of NE region, Andaman & Nicobar Island, Lakshadweep Islands and Ladakh, which provides as under:

“(i) In case of civilian employees of Central Government transferred to and posted from a date prior to 01.07.2017 who leave their families behind at the old duty station, the HRA of the old duty station will be calculated on the revised pay drawn on 01.07.2017 with percentage rates of HRA effective on 01.07.2017 as per O.M. No.2/5/2017-E.II(B) dated 07.07.2017.

“(ii) In case of civilian employees of Central Government transferred to and posted from a date on or after 01.07.2017 who leave their families behind at the old duty station, the HRA of the old duty station will be calculated on the revised pay drawn on the date of transfer with the percentage rates of HRA effective on the date of transfer.”

31. Thus, as per the aforesaid Office Memorandum, the petitioner in W.P.(C) No.243 of 2020 is entitled to receive

the HRA along with additional HRA, as he has been transferred to NE region from 103 Bn. Therefore, the stoppage of HRA to the petitioner and recovery of HRA being paid to him from 16.2.2019 to March, 2020 is not appreciable and without opportunity of hearing to the petitioner.

32. Drawal of two HRAs by a Central Government employee would be admissible even if the employee keeps their family in the previous station on the own or rented house after vacating the Government quarters due to transfer to NE region.

33. It is not the case of the respondents that the petitioners herein are still occupying the Government quarters at the previous place of posting. The essential requirement for applicability of the benefit of HRA to the employee is that the family members of the employee must be residing with the employee at the previous place of transfer before being sent to NE region. It is not the case of the respondent authorities that the family members of the petitioners have not resided with the petitioners at the previous place of transfer before they have been transferred to NE region. The specific case of the petitioners is that before the transfer, they resided with their family members at the previous place.

34. The rationale behind grant of double HRA to employees, who are posted to NE region or at Andaman and Nicobar Islands is that on their posting to those 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.

35. It is not in dispute that the petitioners otherwise fulfilled the conditions for grant of HRA. As stated supra and also the circumstances in which the petitioners' families could not be expected to be at 32 Bn., Loktak, Manipur and 109 Bn., Imphal respectively, the petitioners are entitled to the benefit of HRA.

36. There is no dispute that most of the CRPF battalions whose Group Centres are located in NE region are deployed outside region. However, they are not allowed to NE concessions though its affiliated Group Centres are located in NE region. As rightly argued by learned counsel for the

petitioners, hundreds of thousands of CRPF personnel serving in difficult areas leaving their family behind are deprived of the concession granted by the Government only because of the whimsical attitude and misinterpreting of the rules/orders of the Government.

37. It is settled law that grant of HRA under special concession to NE region should also be treated on the same line without restriction of the location of the headquarter.

38. In W.P.(C) No.11083 of 2019 (Praveen Yadav and others v. Union of India and others) with W.P.(C) No.3370 of 2020 (Gaurav Singh and others v. Union of India and others), decided on 16.12.2022, a Division Bench of the Delhi High Court held as under:

“16. The afore-noted commendation of the Seventh Pay Commission acknowledging the services of uniformed services regarding HRA is highly appreciated. We are also in consent with the view that they are required to stay in the fields, far off from all necessary amenities while leaving their families behind. We, while holding the Chair as the Judges of this Court as well as normal civilians, respect their will power to

stay away from their families. Interestingly though the competent authority of Seventh Pay Commission also recognized the lack of proper compensation and need of paying HRA to these employees, we fail to understand why the Commission only thought of giving parity to the PBORs of CAPF at par with PBORs of Defence Forces; while leaving behind the proposal of extending the same benefit to the Coy Commanders (officers of the level of Assistant Commandants/ Deputy Commandants) under examination. It is a strange anomaly which is sought to be corrected in this petition.

17. Even in the counter affidavit filed on behalf of respondents and during the course of arguments, no such submission was made by learned CGSC appearing on behalf of respondents that the proposal of extending the same benefit to the Coy Commanders/ Officers of Group A was under consideration. To the contrary, the stand of respondents is that the impugned Signal has been passed in compliance of the recommendations of the Seventh Pay Commission. We are unable to find any reason as to why officers belonging to the rank of Officers / Coy Commanders or

PBROs, should not be granted similar benefit more so as the factum of their serving at far off locations has been recognized and it cannot be differentiated on cadre basis. We fail to understand why such policy decisions discriminating within the force should be permitted to continue, especially to the officers of the force who spend their lives serving the nation.

18. We have gone through the decision in Supreme Court in Prem Chand (Supra) relied upon by the petitioners and find that the said case relates to benefits of flexibilities in imports given to Export Houses and though the facts of the case are distinguishable and not applicable to the present case, however, there is no dispute qua the settled position that the right to equality guaranteed under Article 14 ensures equality amongst equals and its aim is to protect persons- similarly placed against discriminatory treatment. We have also gone through the decision of this Court in Govind Kumar Srivastava (Supra) relied upon by the petitioners, which pertains to grant of pro-rata pension only to the Commissioned Officers of the Defence Services and not to non-Commissioned Officers/ PBORs and this Court held that

such denial of pro-rata pension to them is violative of Article 14 of the Constitution. In Dev Sharma (Supra) this Court while dealing with the case of retirement age of members of the Central and Allied Forces held that element of discrimination of retirement age must be done away with.

19. Applying the ratio of law settled in various decisions to these petitions, we find that respondents cannot be permitted to take discriminatory view for personnel of different forces deployed in common areas for grant of HRA. Accordingly, the Signal dated 15.03.2018 and letter 22.03.2018, rejecting petitioners' request for grant of HRA, are hereby set aside. The impugned Office Memorandum No. II-270 12/35/CF-3396486/20 17-PF-I dated 31.07.2017 issued by the Government of India, Ministry of Home Affairs, Police-II Division (PF-I Desk) and the Signal No. P.I-1I2017 dated 08.09.2017 in respect of Seventh Pay Commission issued by the DIG (Adm) Dte. CRPF, are hereby partly set aside with direction to the respondents that the benefit of HRA shall not be confined to only PBORs but shall be extended to all the personnel of the Forces irrespective of their rank, as per their entitlement. Further, respondents are

directed to take necessary steps within six weeks of this judgment, in consultation with the Ministry of Home Affairs as well as Ministry of Finance, to grant benefit of HRA to the petitioners and similarly situate personnel w.e.f. passing of this judgment.

20. In view of the above, these petitions are accordingly disposed of.”

39. The ratio propounded by the Division Bench of the Delhi High Court squarely applies to the case on hand. The benefit of HRA is for the welfare of the families of the employees who are posted in the difficult stations like NE region etc. Those Central Government employees, particularly the civilians, who on their transfer to the notified region keep their families at the previous place of posting in a rented or own accommodation after vacating the Government quarters which they were occupying and had to vacate after transfer shall be entitled to the benefit of the HRA/additional HRA.

40. The purpose and object of granting the benefit of HRA is to reward the persons who are posted in the NE region. When the basis for granting HRA to the employees posted in NE region is provided, this Court fails to understand why the

respondents are denying the benefit of HRA to the petitioners, who were posted in NE region.

41. In ***Director General, CRPF and others v. Janardan Singh and others, (2018) 7 SCC 656***, the Hon'ble Supreme Court held:

“23. The classification as made in the Government Order dated 31.3.21987 does not pass the twin test as noted above. The Government having itself realised the error has corrected the same by the Government Order dated 3.8.2005 permitted the special (duty) allowance to all who are posted and serving in North-East region irrespective of the facts as whether their headquarters are within the North-Eastern Region or outside the North-Eastern region.”

42. Thus, it is clear from the above decision of the Hon'ble Supreme Court that there is no intelligible differentia between two classes of employees posted and serving in the NE region. The policy of law as is clear from the Government notification is that the Government came with a scheme of special (duty) allowance with the object and purpose of encouraging, attracting and retaining the services of the officers

in the NE region. The two categories, namely (i) whose headquarters are within NE region and (ii) whose headquarters are outside the NE region clearly indicate that classification is not founded on any intelligible differentia.

43. Nowhere in Chapter-XV of FR-SR Part-IV it is mentioned that HRA is a headquarter based allowance. While issuing the impugned order, the respondent authorities have not stated anything about the specific rule that HRA is a headquarter based allowance. Further, there is no such detachment of headquarter or notional headquarter in any rules or Government Orders granting HRA to Government servants posted in NE region.

44. For the foregoing discussions, this Court is of the considered view that the petitioners have established their case and also the petitioners are still keeping their families at the last places of posting and since they were posted in NE region, the petitioners are entitled to HRA of last place of posting. However, without applying the mind and affording any opportunity of hearing before stopping the payment of HRA, the respondent authorities have issued the impugned orders, which are arbitrary and, therefore, the same are liable to be set aside.

45. In the result,
- (i) *W.P.(C) No.243 of 2020 and W.P.(C) No.508 of 2020 are allowed.*
 - (ii) *The order dated 27.2.2020 issued by the respondent authorities in W.P.(C) No.508 of 2020 and the stoppage of HRA granted to the petitioner in W.P.(C) No.243 of 2020 are set aside.*
 - (iii) *The respondent authorities are directed to release the entitled HRA to the petitioner in W.P.(C) No.508 of 2020 with effect from 13.8.2019 in terms of sanction order dated 3.9.2019 issued by the Commandant, 109 Bn., CRPF, Mongsangai, Imphal West, Manipur.*
 - (iv) *Similarly, the respondent authorities are directed to release the HRA to the petitioner in W.P.(C) No.243 of 2020 in terms of the sanction order dated 21.2.2019 issued by the Commandant, 32 Bn., CRPF, Loktak, Manipur with effect from April, 2020.*

- (v) *The respondent authorities are directed to refund the recovery of HRA, if any made, to the petitioners within a period of four weeks from the date of receipt of a copy of this order.*
- (vi) *There will be no order as to costs.*

JUDGE

FR/NFR

Sushil