

**THE HON'BLE SRI JUSTICE NOOTY RAMAMOHANA RAO
AND**

THE HON'BLE DR. JUSTICE B. SIVA SANKARA RAO

WRIT APPEAL No. 262 OF 2006

J U D G M E N T : *(per Hon'ble Sri Justice Nooty Ramamohana Rao)*

Since this is an old matter, we have adjourned the case on 16.03.2016 by one week, but however, when the matter is taken up today, there is no representation on behalf of the learned counsel for the appellant and none appears on behalf of the appellant either, though the name of the appellant is called.

Heard Ms. Uma Devi, learned Standing Counsel for the respondent.

The writ petitioner is the appellant. It appears, he initially joined the Indian Air Force and after serving the Armed Forces of the Union of India for a considerable length of time, took retirement and then, joined Vayudoot as a Trainee Captain in November 1985. He was converted into a full-fledged Captain in the year 1986 and was subsequently, directed to officiate as Regional Head of Andhra Pradesh and Karnataka Regions of Vayudoot. In March 1993, Vayudoot got merged with the Indian Airlines and by October, 1993, the States of Tamilnadu and Kerala were also added to the Southern Region and the petitioner was required to oversee these operations. The former employees of Vayudoot were also absorbed in the service of the Indian Airlines Corporation some time during the year 1996. On 04.03.1996, the writ petitioner – appellant was kept in-charge of the Eastern Region and was ordered to officiate as the Deputy General Manager there. Since the petitioner was asked to officiate from Calcutta, he was required to surrender the leased accommodation at Hyderabad and also the official car. On the pretext that he has neither vacated the leased accommodation provided by the respondent nor surrendered the official car attached to him while he was functioning at Hyderabad, the

respondent has demanded certain monies towards the above two counts and deducted the same also.

The case of the writ petitioner – appellant was that between 01.12.1994 and 09.05.1996, he is not liable to be charged any penal rent or even deduct the lease amount of Rs.4,500/- per month on the ground that he is only entitled to avail House Rent Allowance of Rs.1,000/- at Calcutta. It was brought to the notice of the learned Single Judge that on 08.05.1996, conditions, subject to which the petitioner was required to function at Calcutta, have been spelt out by the respondent, wherein it was mentioned that from 01.12.1994 to 09.05.1996, the petitioner – appellant would be entitled for House Rent Allowance and that from 10.05.1996 to 08.08.1996 he will be provided with leased accommodation at Hyderabad and from 09.08.1996 to 18.02.1997, he is to be provided with leased accommodation at Calcutta, alternatively, he could be paid House Rent Allowance, if leased accommodation is not available at Calcutta. Taking all these factors into account, the learned Single Judge has come to the conclusion that deducting a sum of Rs.45,800/- towards leased accommodation charges at Hyderabad is not justifiable, hence, directed the respondent to refund the same to the petitioner within a period of eight weeks.

Since the writ petitioner – appellant has not disputed that he used the official car beyond 08.08.1996, the charges for its use up to 07.11.1997, which aggregated to Rs.26,067/-, were deducted. So far as deduction of this amount is concerned, the Court did not find fault with the same, as the writ petitioner – appellant has used the official car during this period. The plea urged by the petitioner that after giving discount towards depreciation, the respondent is supposed to offer the vehicle for sale to him, has not been accepted.

So far as the deduction of Rs.45,800/- towards charges for the leased accommodation at Hyderabad is concerned, the learned Single

Judge has granted the necessary relief to the petitioner – appellant. That part of the order was not challenged. Therefore, it has attained finality.

The only area of controversy, which remains to be resolved in this Appeal, is relating to the charges, which are liable to be deducted for usage of official car provided to the petitioner – appellant for the period for which he was not functioning at Hyderabad, but was functioning at Calcutta.

When once an official car was provided for the purpose of transportation facility to the employee concerned, such a facility can be availed only during the time the employee serves the organization at the place where such facility was provided. Hence, so long as the petitioner – appellant has functioned at Hyderabad, he is entitled to use the official car, but when once he has been shifted by way of transfer to Calcutta, without there being any permission specifically obtained for using the official car for the period beyond his transfer to Calcutta, he has to pay for its usage. Therefore, we do not find any fault on the part of the respondent to have proposed to recover the money for usage of the vehicle, which was admittedly utilized by the petitioner and / or his family members, though he was not functioning at Hyderabad. We do not find anything improper in the conclusion drawn by the learned Single Judge to this extent.

In the memorandum of grounds of Appeal, it was urged that the learned Single Judge ought to have granted interest on the amount of Rs.45,800/-, which was ordered to be refunded to the petitioner within eight weeks. The contention in this regard lacks merit because the money, which has been deducted by the respondent is not out of any commercial transaction, but out of the view taken by them that the accommodation at Hyderabad availed by the petitioner – appellant has to be paid for, whereas on a proper appreciation of the conditions,

subject to which the petitioner – appellant was asked to discharge his functions at Calcutta, the learned Single Judge has come to the conclusion that such deduction is not justifiable. Therefore, the question of awarding interest on such refund, perhaps, would not arise.

Hence, the Writ Appeal stands dismissed. No costs.

Consequently, the miscellaneous applications, if any shall also stand dismissed.

NOOTY RAMAMOHANA RAO, J

DR. B. SIVA SANKARA RAO, J

30th March 2016

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