

HON'BLE SRI JUSTICE A.RAMALINGESWARA RAO

WRIT PETITION No.24030 of 2002

ORDER:

The petitioner, a Central Warehousing Corporation Employees' Union, filed the present writ petition challenging the clarification to point No.4 of the statement of clarifications annexed to the proceedings, dated 19.09.2002, issued by respondent No.2-Joint Manager (Personnel), Central Warehousing Corporation, as unreasonable and contrary to paragraph '6' of the implementation orders issued by respondent No.3-Commercial Manager, Warehousing Corporation on 27.08.2002 and the Office Memorandum, dated 22.01.2001, issued by the Government of India.

The petitioner union consists of Members belonging to Group 'C' and 'D' Employees of the Central Warehousing Corporation (Andhra Region). It states that a discussion was held between the Management of the Central Warehousing Corporation and their workmen and the Memorandum of Discussion was signed on 18.01.2002. In pursuance of the said Memorandum, a settlement was arrived at on 26.08.2002 and the implementation orders were issued on 27.08.2002. As per paragraph 6(a) of the said settlement, the House Rent Allowance (HRA) payable to A, B1 and B2 class cities is 15% of the basic pay. Another Office Memorandum was issued on 22.01.2001 clarifying that the Public Sector Undertaking Employees would be allowed to draw the earlier rates of HRA wherever HRA rates are lower than earlier rates as per new

classification of the cities till further orders are received from the Government.

It is the case of the petitioner that the clarification to point No.4, communicated through proceedings, dated 19.09.2002, runs contrary to the settlement, since it refers to the Office Memorandum, dated 19.07.1995, which pertains to the revision of pay scales of the Executives holding posts below the Board level and non-unionised Supervisors, but does not pertain to Group 'C' and 'D' Employees. The relevant query and the clarification communicated in proceedings, dated 19.09.2002, are as follows:

Query	Clarification
4 (a) Whether OM dated 22.01.2001 issued by DPE is applicable for Group C & D employees and if applicable whether HRA may be paid as per the present rate of 25%, 15%, 10% subject to a ceiling of Rs.1500/-,750/-,450/- respectively. At present, employees of Lucknow region are being paid @25%, 15%, 10% subject to a ceiling of Rs.1500/-, 750/-, 450/- as against the table rate of 15%, 7.5% & 5%.	Employees would be allowed to draw the earlier rates of HRA wherever HRA rates are lower than earlier rates as per new classification of cities till further orders from the Government, subject to the ceiling and other conditions mentioned in the DPE OM No.2 (50)/86/DPE(WC) dated 19.07.1995 and DPE OM dated 25.06.1999.

The petitioner states that it submitted representation on 26.09.2002 for issuing instructions for payment of HRA and in response to the same, respondent No.6-Deputy Manager (Accounts, Central Warehousing Corporation issued an order on 27.09.2002 stating that HRA would be paid as per the said clarification. In those circumstances, the clarification to point No.4 in proceedings, dated 19.09.2002, is challenged in the present writ petition.

A counter-affidavit was filed on behalf of the respondents admitting that the Memoranda, dated 19.02.1995 and 25.06.1999, referred to in para '6' of the affidavit, do not relate to Group 'C' and

'D' categories. Though the instructions contained in Office Memorandum, dated 22.01.2001, are applicable only to the Officers and Staff at Board level, below Board level and non-unionised Supervisors, the clarification was given by respondent No.2 in respect of Group 'C' and 'D' Employees, which is not contrary to any rule or any proceeding. Pursuant to the settlement arrived at between the parties, HRA was agreed to be paid as per paragraph '6' of the proceedings, but on implementation of the wage revision, some doubts or queries were received from the Regional Offices and Unions seeking clarification on various points and clarification was communicated by proceedings, dated 19.09.2002, issued by respondent No.2. The clarification to query No.4 relates to payment of HRA. The scales of pay were revised with effect from 01.01.1997. It was provided that HRA to Public Sector Employees would be at the rates applicable to the Central Government employees based on the re-classified list of cities as notified by the Government of India. As per the re-classification, Hyderabad City is classified as 'A' and the rest was classified as B-II and C etc.

The above clarification though incorporates paragraph 6(a) of the settlement arrived at between the parties, it was made subject to the ceiling and other conditions mentioned in Office Memoranda, dated 19.02.1995 and 25.06.1999. The petitioners are aggrieved by the same.

Learned counsel for the respondents placed before this Court, an Office Order, dated 17.07.2003, further clarifying that the provision of production of rent receipt as stipulated in Office

Memorandum, dated 19.07.1995, has been done away with *vide* Office Memorandum, dated 01.07.2003. In view of the same, what remains is paragraph '9' of the Office Memorandum, dated 25.06.1999.

The Office Memorandum, dated 25.06.1999, deals with payment of HRA to the Employees of Central Public Sector Enterprises on the basis of the classification of the Cities. Though such a classification is made, the present clarification protected the payment of HRA at the old rates wherever old rates are lower than earlier rates as per the new classification of the Cities.

It is also stated by the learned counsel for the respondents that HRA was paid as per the said clarification and no grievance subsists as on today.

In view of the later clarification by the Office Orders issued subsequent to the filing of the writ petition, no cause of action survives and the writ petition is accordingly closed. However, if the petitioner has any grievance with regard to the payment of arrears of HRA consequent to the subsequent Office Orders, it is always open to it to submit a representation for consideration of the respondents clearly specifying the grievance and the respondents shall consider the same in accordance with law. There shall be no order as to costs.

Miscellaneous petitions, if any, pending in this writ petition shall stand closed.

A.RAMALINGESWARA RAO,J

Dt:09.12.2016
kdl

