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

+ **W.P.(C) 8409/2016**
NAND RAM

..... Petitioner
Through: Ms. Pallavi Awasthi with
Ms. Mitali Tyagi, Advocates.

Versus

UNION OF INDIA AND ORS Respondents
Through: Mr. Prasanta Varma, Senior
Central Government Counsel
with Ms. Shalu Goswami,
Advocate.

CORAM:
JUSTICE S. MURALIDHAR
JUSTICE SANJEEV NARULA

ORDER
% **18.12.2018**

1. The Petitioner was recruited as a Sub-Inspector in the Central Industrial Security Force (‘CISF’) on 2nd February 2002 and has approached this Court challenging the following order dated 18th September 2015 passed by the Respondents:

“OFFICE OF COMMANDANT
CENTRAL INDUSTRIAL SECURITY FORCE
(MINISTRY OF HOME AFFAIRS)
No.C-11018/CISF/ONGC(J)/PA/BA/154028 Unit ONGC,
Jorhat

Dated 18.09.2015
Subject: REQUEST FOR GRANT/CONTINUATION OF HRA
DURING DEFERMENT & OUTSTATION HRA WHILE
POSTED IN NER: REG

This is to inform you that you had appeared before Director General CISF Head Office New Delhi on 26.09.2014 with a request on abovementioned subject, on which the office of Director General CISF Head office New Delhi, vide Office letter No.-E-12017/3/ST.DO/6394 of dated 02.09.2015 intimated to this office with the following remark.

“MATTER HAS BEEN EXAMINED AT THIS DIRECTORATE IN THIS CONNECTION REQUEST HAS BEEN CONSIDERED AND REGRETTED BEING DEVOID OF MERIT”

-Sd-
Deputy Commandant/Admin.
CISF Unit ONGC, Jorhat”

2. Declining his request for grant/continuation of house rent allowance ('HRA') during deferment as well as outstation HRA when posted in the North-east region on the grounds of it being devoid of merit.

3. The background facts are that the Petitioner served at several stations but relevant to the present case is his posting at IGI Airport, New Delhi from 16th April 2007 to 2nd August 2012. While being posted at IGI Airport, vide movement order dated 2nd August 2012 he was stood posted to SSG Battalion Noida on deferment. While being on deferment duty at SSG Noida, by an order dated 31st March 2013 was transferred to ONGC, Jorhat, Assam.

4. On 14th January 2014, the Petitioner applied to ONGC, Jorhat for payment of HRA. At this stage, in terms of OM No.11014/I/E.II(B)/84 dated 28th May 1986, the Petitioner was entitled to double HRA on account of his family living in New Delhi as well as his posting at Jorhat, Assam which is a

hard area posting. In the present petition, however, the Petitioner has restricted his plea to HRA in respect of the period of his posting in New Delhi which would cover his period of deferment posting as well.

5. It is not in dispute that pursuant to the request made by the Petitioner, his posting to Jorhat was deferred and, during the period of deferment, he was stationed at SSG Noida. That this was a deferment posting is clear from documents in the office note, dated 6th August 2013 which reads as under:

“OFFICE OF THE DY. INSPECTOR GENERAL
CENTRAL INDUSTRIAL SECURITY FORCE
(MINISTRY OF HOME AFFAIRS)

CISF UNIT SSG
GR. NOIDA (UP)
DATED: 06/08/2013

NO.E-42099/CISF/SSG/O.O/ADM-II/2012/820

INTER OFFICE NOTE

SUB:-POSTING OF CISF PERSONNEL : REG

In pursuance of FHQRS, New Delhi Msg. No.(68) dated 31/01/2013, CISF No.024690021 INSP/Exe Nand Ram had appeared in OR at FHQRS on 21/12/2012 and requested either retention at IGI Airport or deferment upto 31/03/2013 or post him to GBS/DMRC Delhi.

02. His case has been considered by DG/CISF and directed to keep him in Delhi till 31/03/2013 and thereafter he will be relieved on posting to CISF Unit ONGC Jorhat on 31/03/2013 (AN) after completion of above deferment.

COMMANDANT)
CISF UNIT SSG, GR, NOIDA, UP”

6. The Petitioner's request for HRA in relation to the period during which he was at SSG, Noida while his family were still staying in outliving at IGI Airport, New Delhi was recommended by the Deputy Inspector General through the notice/letter addressed to the Inspector General, CISF, North-east Station, Headquarter, Calcutta. Paras 2 and 3 of the said communication read as under:

“02. In this context it is intimated that, on receipt of the transfer order for ONGC Jorhat vide FHQ SO No.48/2011, the individual appeared before honourable DG CISF regarding deferment of posting for a period of one year on medical treatment of his wife and educational ground of his son. His case was considered by honourable DG and deferred his posting for a period of one year, with a direction to shift him to SSG Noida. Accordingly he was shifted to SSG Noida but his family were still staying in outliving at IGI Airport New Delhi. Subsequently he applied for HRA at SSG Noida but his request was turned down stating that 25% of authorise strength of family accommodation has already allotted to 04 Inspector of their unit as a result of which he was paid barrack allowance instead of HRA.

03. In the instant case, it is apparent that the honourable DG CISF deferred the posting of the individual and shifted him to SSG Noida. Also during the deferment period the family of the individual was staying at Delhi and he was not granted HRA at SSG Noida as authorise strength of family accommodation of the unit was occupied. Therefore, his claim for out station HRA (NER benefits) seems to be justified.”

7. One of the grounds for turning down his request was that “25 per cent of the authorised strength of family accommodation has already been allotted to four inspectors of the petitioner's unit” and therefore he was only paid barrack allowance instead of HRA.

8. In an order dated 13th November 2018 in W.P.(C) 7640/2017 (*Satyabir Singh v. Union of India & Ors.*), this Court took note of the fact that the above was not a valid ground for declining HRA. It was noted in the said order as under:

“7. At least two Division Benches of this Court have, by the decisions in *Jaspal Singh Mann vs. Union of India (2009) ILR 1 Delhi 165* and *Anand Kumar v. Union of India* [decision dated 30th August 2017 in W.P.(C) No.6720/2016], categorically held that, in terms of the Rule 61 of the CISF Rules, the members of the CISF would be entitled to HRA when they are not provided family accommodation to which they are entitled. It has also been categorically held that the HRA would be available “even in cases where barrack accommodation is provided” and even in such cases where a person entitled to married accommodation is allotted an unmarried accommodation.”

9. It is then contended by learned counsel for the Respondents by referring to the relevant part of the counter-affidavit that the Petitioner was wrongly claiming family accommodation when the record in relation to his posting order described him as a bachelor.

10. The above mistake of showing the Petitioner to be a bachelor is by the Respondents. That he was not a bachelor even during his posting at New Delhi as well as deferred posting at Noida is apparent from the communication written by the Deputy Inspector General to the Inspector General, CISF, a portion of which has been extracted hereinabove. That communication clearly acknowledges that he had requested deferment of his posting to Jorhat “for a period of one year on medical treatment of his wife and educational ground of his son”. Therefore, the Respondents knew throughout that the Petitioner was married and was entitled to family

accommodation.

11. This Court, in *Jaspal Singh Mann v. Union of India (2009) ILR 1 Delhi 165*, has struck down a similar requirement of non-availability of accommodation as a ground to reject the request. Therefore, there is no valid ground on which the request of the Petitioner for HRA could have been turned down.

12. Further, the Petitioner's claim for HRA on the basis of denial of accommodation in Delhi was also justified because it is only by way of deferment that he was at the SSG in Noida.

13. For the aforementioned reasons, the Court directs that the amount constituting the arrears of HRA to which the Petitioner was entitled during the period of his posting in Delhi from 3rd August 2012 till date be granted to him within a period of 8 weeks from today.

14. The writ petition is allowed in the above terms.

S. MURALIDHAR, J.

SANJEEV NARULA, J.

DECEMBER 18, 2018

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