

**IN THE HIGH COURT OF PUNJAB AND HARYANA
AT CHANDIGARH**

Civil Writ Petition No. :25276 of 2019(O&M)
Date of decision : September 10, 2019

Union of India and another ...Petitioners
Versus
Central Administrative Tribunal and another ...Respondents

CORAM: HON'BLE MR. JUSTICE RAJIV SHARMA
HON'BLE MR. JUSTICE HARINDER SINGH SIDHU

Present: Mr.Arun Gosain, Advocate for
the Union of India - petitioners.

Harinder Singh Sidhu, J. :

1. This writ petition has been filed against the order dated 09.05.2019 of the Central Administrative Tribunal, Chandigarh Bench, whereby Original Application No.060/01387/2017 filed by respondent No.2 – Anuj Kumar Chauhan was allowed. The petitioners were directed to release House Rent Allowance to respondent No.2 w.e.f. 04.01.2017 onwards.

2. Respondent No.2 is working as Labour Enforcement Officer (Central) in the Ministry of Labour and Employment. At the relevant time, he was posted at Faridabad. He was getting House Rent Allowance (HRA) every month, but the same was stopped from October, 2016. He submitted representations dated 04.01.2017 and 21.02.2017 for release of HRA. He was asked to obtain a 'No Accommodation Certificate' from the Assistant Estate Manager. He submitted representation dated 01.07.2017 to the Assistant Estate Manager. The Assistant Estate Manager vide letter dated 21.07.2017 informed him “....*You are hereby informed that this office is not issuing any such certificate in the name of 'no accommodation'.*”

3. Respondent No.2 again sent letters dated 01.08.2017 and 04.09.2017 requesting for release of HRA but received no response. Hence, he filed the OA.

4. The case of respondent No.2 before the Tribunal was that there was no government accommodation earmarked for the post of Labour Enforcement Officer (Central) at Faridabad. He had neither applied for nor had he been allotted any accommodation from the General Pool. He had his own house in which he was residing. He claimed that as per paragraph 7(i) of the Instructions issued vide notification dated 27.11.1965 a person living in a house owned by him, his wife, children, father or mother shall be eligible for House Rent Allowance.

5. The case of the Department was that respondent No.2 had not fulfilled the conditions under paragraph 4a(i) and 4a(ii) of the notification dated 27.11.1965 as per which he was required to obtain a 'no accommodation certificate'. Further as per office memorandum dated 14.11.2007 issued by the Ministry of Urban Development Directorate of Estates a 'no accommodation certificate' was required in respect of employees working in 22 cities where there was surplus government accommodation. Faridabad was at Sr.No.02 in the said notification. As respondent No.2 had not submitted the 'no accommodation certificate' he was not entitled for grant of HRA.

6. The learned Tribunal referred to Office Memorandum dated 05.03.2019 issued by the Ministry of Finance which dispensed with the requirement of applying for Government accommodation and furnishing 'no accommodation certificate' for being eligible for grant of HRA. Further

taking note of the fact that respondent No.2 had submitted a representation on 04.01.2017 for release of HRA, directed that he be released HRA w.e.f. 04.01.2017 onwards if he was otherwise eligible.

7. Ld. counsel for the appellant has contended that Office Memorandum dated 05.03.2019 cannot be applied retrospectively as it has been specifically stated therein that it shall be effective from the date of its issue. He further contended that the Ld. Tribunal has misread the provisions of the Office Memorandum dated 27.11.1965. Even as per that OM obtaining NAC was an essential pre-requisite for grant of HRA.

8. Notwithstanding the aforesaid contentions of the learned counsel for the appellant we are not inclined to interfere with the order of the Ld.Tribunal. After the grant of HRA had been stopped, respondent No.2 applied for grant of HRA on 04.01.2017. Vide letter dated 01.07.2017 he even approached the Assistant Estate Manager for grant of NAC to which the Assistant Estate Manager replied on 27.07.2017 stating that their office does not issue any such certificate in the name of 'no accommodation". Respondent No.2 cannot be penalised for the failure of the Assistant Estate Manager to issue the 'no accommodation certificate'. Accordingly, there is no merit in the petition.

9. Dismissed.

(RAJIV SHARMA)
JUDGE

(HARINDER SINGH SIDHU)
JUDGE

September 10, 2019

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Whether Speaking / Reasoned	Yes
Whether Reportable	Yes / No