IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT

THE HONOURABLE SMT. JUSTICE P.V.ASHA

WEDNESDAY, THE 26TH DAY OF FEBRUARY 2020 / 7TH PHALGUNA, 1941

WP(C).No.18516 OF 2012(L)

PETITIONERS:

1 CWRDM EMPLOYEES ORGANIZATION
REPRESENTED B Y ITS GENERAL SECRETARY,
N.RADHAKRISHNAN, AGED 49 YEARS,
S/O.NATARAJAN, REGISTRATION NO.12-2 OF 1991,
KUNNAMANGALAM, KOZHIKODE-673571, KERALA.

2 DR.DINESAN, AGED 52 YEARS
S/O.BALAN, RESIDING AT AMBADI,
KOOTAMPARAMBU.P.O, KOZHIKODE-673008,
NOW WORKING AS SCIENTIST IN CWRDM.

BY ADVS.
SRI.NAIR AJAY KRISHNAN
SRI.R.T.PRADEEP

RESPONDENTS:

1 THE SECRETARY TO GOVERNMENT
SCIENCE AND TECHNOLOGY DEPARTMENT,
SECRETARIAT, THIRUVANANTHAPURAM-695 001.

2 THE CONTROLLER OF ADMINISTRATION
KERALA COUNCIL FOR SCIENCE TECHNOLOGY AND
ENVIRONMENT, (KSCST),
GOVERNMENT OF KERALA-695 001.

3 THE EXECUTIVE DIRECTOR
CENTRE FOR WATER RESOURCES DEVELOPMENT AND
MANAGEMENT, KUNNAMANGALAM,
KOZHIKODE-673571.

ADDL. R4 *ADDL.R4 TO R6 IMPLEADED

CALICUT CORPORATION
REPRESENTED BY ITS SECRETARY,
CALICUT CORPORATION, KOZHIKODE.

ADDL. R5 **THE KUNNAMANGALAM GRAMA PANCHAYATH REPRESENTED BY ITS SECRETARY, KUNNAMANGALAM.**

ADDL. R6 **THE PERUVAYAL GRAMA PANCHAYAT REPRESENTED BY ITS SECRETARY, PERUVAYAL.**
***(ADDL.R4 TO R6 ARE IMPLEADED AS PER ORDER DATED 20.12.2012 IN I.A.NO.16517/2012)**

BY ADV.SRI.K.D.BABUSCKOZHIKODE CORPORATION
BY ADV.SRI.GEORGE ZACHARIAH, SC, KSCSTE
BY ADV.SRI. ANOOP P.V., SC,
BY ADV.SRI.K.D.BABU, SC

OTHER PRESENT:

BY SRI.SUNILKUMAR KURIAKOSE, GP

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 26.02.2020, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

J U D G M E N T

Petitioners are employees' organization of Centre for Water Resources Development and Management (for short "CWRDM") and an employee working under the CWRDM. They are aggrieved by Ext.P6 order passed by Government rejecting their representation to allow them to continue to draw House Rent Allowance (HRA) and City Compensatory allowance (CCA) at Corporation rates.

2. Petitioners claim that employees of the CWRDM were being paid HRA and CCA at the Corporation rates and Professional tax was being collected by the Kunnamangalam Panchayath. The audit team raised objection as against the payment of HRA and CCA to the employees of the CWRDM at Corporation rates pointing out that such rates can be only with special sanction of Government. The employees' organization immediately approached the Government with a

representation, pointing out that right from the inception of the CWRDM in the year 1980 the employees were drawing HRA and CCA at Corporation rates based on the decision of the Governing Body of the institution. Government after examining the matter ordered in Ext.P6 that the payment already made towards HRA and CCA upto 02.07.2012-the date of Ext.P6 order would stand regularized; but from the date of Ext.P6 the employees of CWRDM would be eligible for HRA and CCA at the rates applicable to Panchayath areas.

3. According to the petitioner, the entire campus of CWRDM is having urban features due to close proximity with Kozhikode Corporation. It is stated that major portion of the buildings in the campus of CWRDM is spread out in Calicut Corporation and some portion in the Panchayaths of Kottamparamba and Peruvayal and that the Governing Body of the CWRM had sanctioned them the HRA and CCA as applicable to

Corporation based on city agglomeration since 1980. They have also stated that professional tax is being remitted with the Kunnamangalam Panchayath. Petitioners claim that the entire campus is with high rise building and is dominated with urban features. They also stated that the employees in civil station in the Kakkanad Panchayath and employees in Info Park in Trikkakara Panchayath are being paid HRA and CCA at corporation rates considering the proximity with Corporation of Kochi.

4. The first respondent has filed a counter affidavit stating that CWRDM campus located at Kottamparamba is situated at 13 KMs away from Calicut City and has an area of 70 Acres which falls partly under the jurisdiction of Calicut Corporation and partly under Kunnamangalam and Peruvayal Panchayaths. It is also stated that the employees were being paid HRA and CCA at Corporation rates since 1980 as sanctioned by the Governing Body of CWRDM, based on

City Agglomeration whereas the professional tax was being collected from the employees by the Kunnamangalam Panchayath since 1980. It is stated that audit party of Accountant General found this anomaly and that the the area in question has not been declared as urban area for the purpose of HRA/CCA. It is stated that Government after examining the matter found that special consideration is not required and passed Ext.P6 order regularizing the payment already made. The first respondent has stated that CCA and HRA are paid in accordance with the pay revision order-G.O.(P).No.85/2011/Find dated 26.02.2011 and Para 13 Note I (a) therein provides that Government Institutions situated within a radius of 3 Kms from Civil Station Kakkanad are considered as B-2 class city for the purpose of HRA/CCA. It is also provided therein that B2 class city for the purpose of HRA would mean cities of Thiruvananthapuram, Kollam, Kochi, Thrissur and

Kozhikode.

5. Learned counsel for the petitioners submitted that the employees under the respondents were drawing the HRA and CCA on the basis of the decision of the Governing Body and that when the CWRDM came under the Kerala Council for Science Technology and Environment, that had also recommended such payment and recommended the Government for special orders for them and they are entitled to be paid at the rates at which they have been drawing since 1980 and there is no reason for taking a different approach at this stage.

6. The learned Government Pleader referring to the pay revision orders points out that the campus in which the offices of the petitioners are situated are nowhere near the Kozhikode city and therefore the petitioners/employees of CWRDM are not entitled to CCA/HRA at the rate at which they had been drawing and as claimed by them.

7. In the light of the contentions raised, it is necessary to look into the relevant provisions contained in pay revision orders which govern the payment of HRA and CCA. Admittedly the orders governing the payment of HRA and CCA are those available in the pay revision orders issued from time to time. The provisions regarding HRA and CCA in the pay revision order issued in G.O(P).No.85/2011/Fin. dated 26.02.2011 are the following:

"House Rent Allowance

13. House Rent Allowance will be paid at the revised rates based on pay ranges and classifications of cities/places as shown below:

Pay Range (Rs.)	B2 Class City (Rs.)	C Class City/Town (Rs.)	Cities not in B2 & C Class (Rs.)	Other places (Rs.)
8500-8729	350	270	270	250
8730-12549	560	390	390	
12550-24039	840	550	480	
24040-29179	1050	700	530	
29180-33679	1400	950	530	
33680 & above	1680	1110	530	

The State Government employees working in New Delhi and Other States will be eligible for House Rent Allowance at Government of India rates as applicable at these places:

Note:- (1) B2 Class city for the purpose of HRA means the cities of Thiruvananthapuram, Kollam, Kochi, Thirssur and Kozhikode

a) Government institutions situated within a radius of 3 kilometers from Civil Station Kakkanad will be considered as B2 Class city for the purpose of granting House Rent Allowance and City Compensatory Allowance.

b) The employees working in Forest complex at Mathottam (Kozhikode)

is eligible for HRA at the rates applicable to the city limits of Kozhikode.
(2) "C class city/town" includes the cities/towns of Alapuzha, Changanassery, Kanhangad, Kannur, Kasargod Kayamkulam, Kunnamkulam, Kottayam, Malappuram, Manjeri, Nedumangad, Neyyattinkara, Palakkad, Payyannur, Ponnani, Quilandi, Thalasseri, Thaliparamba, Thiruvalla, Tirur and Vadakara.
(3) "Cities not in B2 & C Class" include all other Municipal areas and townships as wells as District and Taluk headquarters not coming under B2 & C class city/town."

City Compensatory Allowance
15.The revised rate of CCA allowed for employees working in the offices located in B2 class cities will be as follows:

Sl.No.	Pay Range	Rate per Month
1	Below Rs.9440	Rs.200/-
2	Rs.9440 and above but below Rs.13540	Rs.250/-
3	Rs.13540 and above but below Rs.16980	Rs.300/-
4	Rs.16980 and above	Rs.350/-

8. Paragraphs 14 & 16 of the pay revision order-G.O.(P).No.7/2016/Fin dated 20.01.2016 read as follows.

"House Rent Allowance
14.The revised rate of House Rent Allowance payable under different pay ranges and classification of cities/places are as shown below:

Sl.No.	Pay Range	B2 Class Cities & above	Other Cities/Town	Other places
1	16500-26500	1500	1250	1000
2	27150-42500	2000	1500	1250
3	43600-68700	2500	1750	1500
4	70350 & above	3000	2000	1750

Notes:
1.The State Government employees working in New Delhi and other states will be eligible for House Rent Allowance at Government of India rates as applicable at those places.
2.B2 class city and above for the purpose of HRA means the cities of Thiruvananthapuram, Kollam, Kochi, Thrissur, Kozhikode and

Kannur.
3.Government Institutions situated within a radius of 3 kilometers from Civil Station Kakkanad, and in the case of other cities (mentioned in Note 2) within 1 Kilometer would be considered as B2 Class city and above for the purpose of granting House Rent Allowance and City Compensatory Allowance.
4.The employees working in Forest complex at Mathottam (Kozhikode) is eligible for HRA at the rates applicable to the city limits of Kozhikode.
5.Other Cities and Towns include all other Municipal areas and townships as well as District and Taluk headquarters not coming under B2 class city & above."

City Compensatory Allowance

16.The revised rates of City Compensatory Allowance allowed for employees working in the offices located in the B2 Class cities will be as follows:

Pay Range	Amount (Rs.)
16500-26500	350
27150-42500	400
43600-68700	450
70350 & above	500

9. It can be seen that HRA is admissible only to those employees within the City as classified in the pay revision order. In Note 2 of para 13 of the 2011 order, it is provided that B2 class city and above would mean cities of Thiruvananthapuram, Kollam, Kochi, Thrissur, Kozhikode and Kannur. It also provides in Note 3 that Government Institutions situated within a radius of 3 kilometers from Civil Station Kakkanad and in the case of other cities

(mentioned in Note 2) within 1 Kilometer would be considered as B2 class city and above. It also provides that other cities and towns will include all other Municipal areas and townships. In the counter affidavit as well as Ext.P6 order, it is stated that the campus of CWRDM is located at Kottamparamba, 13 KMs away from Calicut City and also says that it comes under the jurisdiction of Calicut Corporation and the two Panchayaths. Going by the definition of B2 class cities or other cities/towns mentioned in paragraphs 13 or 15 of the respective pay revision orders, the campus which is 13 KMs away from the City would not come under any of these classifications which would justify payment of HRA and CCA at corporation rates.

10. Even though the learned counsel for the petitioners vehemently argued on the strength of Ext.P1 map that the campus is having the proximity with the Corporation and urban nature, no reply

affidavit is filed in reply to the contentions in the counter affidavit that the campus is located 13 KMs away from Calicut City.

In the said circumstances, I do not find any reason to interfere with the order passed by Government which is issued on the basis of factual circumstances read with pay revision orders. I am of the view that the dispute if any with respect to the location cannot be determined in a petition under Article 226 of the Constitution of India. Accordingly, the writ petition is dismissed.

Sd/-

P.V.ASHA, JUDGE.

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APPENDIX

PETITIONER'S EXHIBITS:

EXHIBIT P1	**TRUE COPY OF THE ROUGH SKETCH OF THE CAMPUS.**
EXHIBIT P2	**TRUE COPY OF THE TAX RECEIPT DATED 27.03.2002 REGARDING REMITTANCE WITH RESPECT TO THE AREA OF CAMPUS FALLING IN CHELAVOOR VILLAGE IN KOZHIKODE TALUK.**
EXHIBIT P3	**TRUE COPY OF THE FORWARDING LETTER DATED 15.03.2012 BY WHICH CWRDM FORWARD BUILDING TAX TO CALICUT CORPORATION.**
EXHIBIT P4	**TRUE COPY OF THE RECEIPT DATED 15.03.2012 BY CALICUT CORPORATION AS TO PAYMENT OF BUILDING TAX.**
EXHIBIT P5	**TRUE COPY OF THE REPRESENTATION DATED 18.01.2012 BY PETITIONER BEFORE CHIEF MINISTER.**
EXHIBIT P6	**TRUE COPY OF THE GO(RT)NO.41/2012/S&TD DATED 02.07.2012 OF SCIENCE AND TECHNOLOGY DEPARTMENT.**