

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR
WRIT PETITION (SERVICE) NO. 5260 OF 2020

Neena Rao, W/o Anil Kumar Sing, aged about 37 years, presently posted and working as Assistant Grade-III, Hidayatullah National Law University, Atal Nagar, Nawa Raipur, District Raipur (CG)

... Petitioner

versus

1. Hidayatullah National Law University, through the Registrar, Hidayatullah National Law University, Atal Nagar, Nawa Raipur, District Raipur (CG)
2. Registrar, Hidayatullah National Law University, Atal Nagar, Nawa Raipur, District Raipur (CG)

... Respondents

For Petitioner	:	Mr. Shashank Thakur, Advocate.
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Hon'ble Shri Justice P. Sam Koshy

Order on Board

21/01/2021

1. Challenge in the present Writ Petition is to the order of recovery issued by the Respondents to the tune of Rs.2,77,000/- to be recovered from the Petitioner in 12 installments.
2. The Petitioner when she had obtained the employment with the Respondents was not married and had availed the facility of HRA (House Rent Allowance). In due course of time, she married to an employee of the same Department who also was availing the benefit of HRA. Under the service rules, if two spouses are in government employment and are posted at the same place of posting, the HRA would be permissible only to one of the spouses. Since the Petitioner after marriage had started residing with her husband at his house, she thereafter would not had been entitled for the benefit of HRA. It appears that erroneously or ignorantly the Petitioner somehow has got the benefit of HRA for a considerable period of time till it was stopped by the authorities and now the excess payment made to the Petitioner since 2008 to 2016 amounting to Rs.2,77,000/- has been ordered to be recovered in 12 installments of roughly Rs.23,000/- per month.

3. Learned Counsel for Petitioner submits that the said amount of recovery being made is *per se* bad for the reason that the Petitioner has never misrepresented or made any false claim for obtaining the HRA and the same appears to be erroneously given at the hands of the Accounts department of the respondent establishment. He further submits that the amount of installments also is excessively high inasmuch as the recovery ordered or the installments come to more than half of the net salary that the Petitioner was receiving and therefore the Petitioner is put to substantial inconvenience and great hardship.

4. Having heard the submissions and the pleadings that the Petitioner has made, admittedly the Petitioner when had obtained the employment was an unmarried person. She was entitled for the benefit of HRA as long as she was not sharing the house along with somebody else who was already drawing the HRA. Hence, after marriage or since the time the Petitioner shifted to the house of her husband she would not had been legally or technically entitled for the benefit of HRA. The said amount therefore has been erroneously paid to the Petitioner and the amount erroneously paid has to be recovered.

5. The fact which reflects from the pleadings at this stage is the age of the Petitioner who is around 37-38 years at present. She has got a considerable period of service left to serve under the Respondents and therefore the recovery whatever has to be made could had been made with an easier installment facility being provided to the Petitioner. True it is that the Respondents are entitled for recovery of the same but it cannot be to the extent of getting the entire amount recovered in a hasty manner thereby putting the employee itself to a great difficulty so far as her meeting the day-to-day requirement of life is concerned. Since the Petitioner has a considerable service left, the installments part could have been eased by the Respondents themselves.

6. Taking into consideration the entire facts of the case, this Court is of the opinion that the order of recovery of Rs.2,77,000/- does not warrant interference by this Court at this juncture as the same has been justifiably issued by the

Respondents. However, the recovery of the same in 12 installments does seem to be bit on the higher side and harsh and needs interference and therefore in the opinion of this Court ends of justice would meet if the recovery is permitted to be made by recovering the same in 36 installments instead of 12 installments. The impugned order therefore stands modified to the aforesaid extent.

7. Accordingly, the Respondents are directed to ensure that the balance of recovery to be made from the Petitioner should be divided to be recovered in a span of 3 years (36 months) starting of first month of recovery already made.

8. Writ Petition stands allowed in part and is disposed accordingly.

/Sharad/

**Sd/-
(P. Sam Koshy)
JUDGE**