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

+ W.P. (C) 10531/2020 & CM APPLs.33330-31/2020

UNION OF INDIA & ORS. ....Petitioners  
Through: Mr.Satpal, Advocate.

Versus

RAMESH KUMAR RAJPUT ....Respondent  
Through: Mr.Gaya Prasad, Advocate.

% Date of Decision: 12<sup>th</sup> January, 2021

**CORAM:**

**HON'BLE MR. JUSTICE MANMOHAN**  
**HON'BLE MS. JUSTICE ASHA MENON**

**J U D G M E N T**

**MANMOHAN, J: (Oral)**

1. Present writ petition has been filed challenging the order dated 05<sup>th</sup> February, 2020 passed by the Principal Bench of the Central Administrative Tribunal (hereinafter referred to as the 'CAT') in OA No 1045/2019.
2. Learned Counsel for the Petitioner states that the CAT vide the impugned order has held that since the Respondent did not stay in the Government Accommodation, he was entitled to the benefits given to an officer who chooses to stay in a private accommodation.

3. Learned counsel for the Petitioner submits that the directions passed by the CAT is contrary to Railway Board's Policy/ PS No. RBI/ /46/2000, according to which, the Respondent herein is not entitled to House Rent Allowance as he was posted as a Senior Section Engineer, and hence belonged to Essential Category of Officers. He further states that as per Policy/ PS No. RBI/ /46/2000 dated 16<sup>th</sup> March, 2020, such employees are not entitled to HRA, as they have as of necessity, to live in the railway accommodation at the station to enable them to discharge their duties effectively during an emergency.

4. A perusal of the paper book reveals that the applicant/respondent had not taken the railway accommodation as according to him, he was entitled to a higher grade accommodation (Type-IV).

5. CAT in the impugned order has recorded that the applicant/respondent had given an undertaking that there would be no delay on his part in attending to any emergency due to not staying in the railway accommodation, as he was living in the immediate neighbourhood. The relevant portion of the order passed by the CAT is reproduced hereinbelow:-

*“6. It is an admitted fact that the applicant did not occupy the accommodation that was allotted to him by the respondents. The applicant has stated that the private accommodation he stayed in was right next to the Railway track which has not been denied by the respondents. No office memorandum or any other document has been filed by the respondents in support of their contention that it was binding on the applicant to stay in the government accommodation provided by the Railways. All that was needed was that he should be available in an emergency. The applicant gave an undertaking that there would be no delay on his part in attending an emergency due to living in outside accommodation.*

*In these circumstances, the respondents have not been able to clarify as to why it was necessary for the applicant to stay in the allotted quarter.*

*7. In the absence of any specific OM, it can then be assumed that the only requirement was that he should be present in an emergency. The applicant has clearly stated that the accommodation he took was right next to the Railway Line and also gave a certificate that he would always be present in an emergency.*

*8. In light of the above, I am of the view that there is merit in this OA. Impugned orders dated 25.06.2015 and 13.11.2018 are set aside. Since the applicant did not stay in government accommodation, he is entitled to the benefits allowed under various rules and OMs for staying in private accommodation. The respondents are directed to pay whatever dues he was entitled to as per rules by virtue of stay in private accommodation. Any dues deducted against the rules should also be refunded to the applicant.”*

6. In view of the above, we do not find any infirmity requiring the interference in writ jurisdiction in the order passed by the CAT. Accordingly, the present writ petition along with pending applications are dismissed.

**MANMOHAN, J**

**ASHA MENON, J**

**JANUARY 12, 2021**

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