



2024:DHC:9920



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

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Date of Decision: 10th December, 2024

+ W.P.(C) 629/2010 & CM APPL. 47972/2024

AMARJIT SINGH CHHABRA

(A.S.CHHBRA)

.....Petitioner

Through: Mr. Deepak Bashta, Advocate

versus

FOOD CORPORATION OF INDIA & ORS.

.....Respondents

Through: Mr. Om Prakash, Standing Counsel
for Respondents/FCI.**CORAM:****HON'BLE MS. JUSTICE JYOTI SINGH****JUDGEMENT****JYOTI SINGH, J. (ORAL)**

1. This writ petition has been preferred on behalf of the Petitioner laying a challenge to the impugned letters dated 13.11.2009, 23.06.2009, 20.04.2009, 12.11.2008 and 26.12.2007, whereby the Respondents/FCI have sought to recover charges for overstaying in the Guest House by deduction from House Rent Allowance ('HRA'), charges of Roaming Calls and differential value of laptop from future payments to be made on account of superannuation benefits. Direction is sought to the Respondents to pay differential amount between the maximum gratuity payable earlier, i.e. Rs.3.5 Lakhs and the revised gratuity as per 6th CPC to the Petitioner as also refund of Rs.81,875/- deducted from the salary of the Petitioner for the months of December 2007 and January 2008, amongst other reliefs.

2. Petitioner joined Food Corporation of India ('FCI') on 07.02.1977



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and was thereafter promoted to various posts and retired as Executive Director/Zonal Manager on 31.01.2008 after rendering 31 years of service. Petitioner avers that he was keeping his family in Delhi for smooth studies of his children and lived in one room of FCI Guest Houses at different places of postings for which he had been paying the usual charges and was receiving HRA wherever there was no FCI accommodation/leased accommodation/self leased accommodation. *Albeit* there was no instruction/policy of FCI with regard to use of Guest Houses by the officers and payment of HRA, yet CAG raised an audit objection that FCI officers using FCI/Government Guest Houses for more than two months, were not entitled to HRA but were only entitled for reimbursement of the rent paid by them in excess of 10% of their Basic Pay or HRA admissible to them and in the garb of the CAG audit, Respondents unauthorisedly deducted money from the Petitioner leading to filing of this writ petition.

3. Learned counsel for the Petitioner submits that FCI has never issued any policy/guideline regulating the payment of the Guest House charges vis-a-vis the HRA and in the garb of an erroneous CAG audit, they have deducted Rs.81,875/- from the salary of the Petitioner due to him for the month of December 2007 and January 2008 for occupying the FCI Guest House from 05.06.2003 to 05.07.2004. Respondents have also recovered Rs.21,400/- from the Petitioner treating his stay in Guest Houses with breaks as a continuous overstay through instructions issued on 24.07.2007. Petitioner retired on 31.01.2008 but post his retirement impugned orders dated 12.01.2009 and 09.03.2009 were issued deducting Rs.2,63,960/- towards stay in FCI Guest House in Chennai from 21.03.2005 to 31.01.2008. Deductions were also sought to be made towards expenditure on



International Roaming Calls and balance amount payable for the Laptop as per book value, which is wholly erroneous and without any legal basis.

4. It is also argued that Petitioner has been discriminated inasmuch as several other officers similarly placed as the Petitioner, whose names have been given in paragraph 7 of the writ petition have been let off without subjecting them to any deduction/recovery and thus, Article 14 of the Constitution of India is violated.

5. Learned counsel for the Respondents *per contra* submits that there is no illegal deduction from the Petitioner. It is argued that vide circular dated 08.03.1996, it was directed that officers of FCI will be permitted to stay in Guest Houses on their postings to the stations where Guest Houses exist for a limited period not exceeding two months under any circumstances. Earlier thereto standing instructions were circulated vide circular dated 22.09.1986 inter alia providing that Government of India instructions will be followed wherever FCI Regulations are silent. Instructions received on 08.03.1996 were reiterated vide circular dated 24.07.1997 that Executives on transfer will not be permitted to stay in Guest Houses beyond two months. The instructions of Government of India contained in FRSR-Part I were reiterated in circular dated 03.06.2005 that officers staying in Guest Houses at their places of postings will not be entitled to draw HRA for their period of stay in the Guest Houses and will be entitled only for reimbursement of the rent paid by them in excess of 10% of their Basic Pay or admissible HRA and therefore Petitioner cannot feign ignorance of the existing circulars and guidelines *albeit* ignorance of law is no excuse.

6. Learned counsel submits that Petitioner was an Executive Director in FCI and was bound to keep abreast with all the circulars and guidelines



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which were even otherwise widely circulated. While working at Mumbai, Petitioner stayed in the Guest House from June 2003 to June 2004 beyond the permissible limit of stay at a Guest House and again while posted at Chennai from February 2005 to January 2008, he overstayed. Clearly, the outer limit of staying in a Guest House was two months and having violated the guidelines he is liable to account for the violation. Going by the Government of India instructions officers staying at Guest Houses at their place of posting are not entitled to draw HRA for the period of stay at the Guest House as per the guidelines. The statutory auditors, therefore, rightly raised an audit objection and insisted for recovery of payments made to the Petitioner amounting to Rs.3,45,835/-. Petitioner is also liable to refund the payments received on account of International Roaming phone calls and the balance from the book value of the Laptop, which he never returned. Insofar as the allegation of discrimination is concerned, learned counsel submits that recoveries have been effected from all officers wherever discrepancies have come to light.

7. Heard counsels for the parties and examined their respective contentions.

8. There is merit in the contention of the Respondents that Petitioner cannot set up a plea of being oblivious of the circulars pertaining to regulation of the period of stay in Guest Houses as also the payment of HRA. On 22.09.1986, FCI issued a circular intimating all officers that as per Government of India directions, wherever no specific provisions are made in Food Corporation Act, 1964 or Rules or Regulations, etc. FCI shall follow Central Government Rules. On 08.03.1996, FCI issued a circular pertaining to use of FCI Guest House accommodation by its officers and clause (iii)



provided that officers will be permitted to stay in Guest Houses on their postings to the stations where FCI Guest Houses exist for a limited period not exceeding two months in any circumstance. This position was reiterated in circular dated 24.07.2007.

9. From the letter dated 19.06.2009 authored by the Petitioner and addressed to the CMD, FCI, it is clear that Petitioner was completely aware of the circular dated 24.07.2007 and admitted that he did not notice it at the relevant time. Even assuming for the sake of argument that Petitioner was unaware of this circular, it is irrelevant for the simple reason that the period of his overstay was prior thereto and at that time there existed a circular dated 08.03.1996 providing a maximum period of two months for stay in a Guest House in the place of posting. Being posted at the senior level of Executive Director, it can hardly be believed that Petitioner was unaware of the executive instructions/circular issued by FCI from time to time or at least ought to have known the guidelines regulating the stay at Guest Houses. There is no challenge to the circulars issued by the FCI, both with regard to the duration of stay at Guest Houses or the entitlement to receive HRA reimbursement. In this light, this Court is unable to hold in favour of the Petitioner that no recovery should be made from him on account of overstay in the Guest Houses on two occasions, i.e. one at Mumbai and second at Chennai.

10. Insofar as the argument of discrimination is concerned, Respondents have taken a categorical stand in the counter-affidavit that whenever it came to light that officers had overstayed, recoveries were made and specific instances of 5 officers, namely Shri A.K. Roy, Shri A.K. Sahani, Shri R.H. Koppad, Shri Tulsidas and Shri P. Heeralal, have been given in paragraphs 7



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and 8 of the counter-affidavit and therefore, even this contention of the Petitioner merits rejection.

11. Accordingly, the writ petition is dismissed being devoid of merit.

12. Pending application also stands disposed of.

JYOTI SINGH, J

DECEMBER 10, 2024
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