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* **IN THE HIGH COURT OF DELHI AT NEW DELHI*****Date of Decision: 06th January, 2022***

+ W.P.(C) 13442/2021

MOHAMMED ISHAM Petitioner

Through Mr.Nikhil Bhardwaj, Advocate.

versus

UNION OF INDIA AND ORS Respondents

Through Mr.Shankar Kumar Jha, SPC
for UOI.**CORAM:****HON'BLE MR. JUSTICE MANMOHAN****HON'BLE MR. JUSTICE NAVIN CHAWLA****MANMOHAN, J. (Oral)**

Present matter has been heard by way of video conferencing.

C.M.No.663/2022

1. Present application has been filed for enlargement of time for filing of counter-affidavit on behalf of the respondents. Even on the last date of hearing, this Court was not inclined to grant time to the respondents to file a counter-affidavit, as the matter was squarely covered by a decision of this Court in *Surender Pal Singh vs. Union of India through Secretary, Ministry of Home & Ors; W.P.(C) No.9853/2021*.
2. Consequently, the prayer for additional time to file the counter-affidavit is declined.
3. Accordingly, the application is dismissed.

**W.P.(C) No.13442/2021**

1. It is pertinent to mention that the present writ petition has been filed challenging the order dated 26th October 2017 vide which request of Petitioner for grant of HRA/allotment of family accommodation was declined. Petitioner also seeks directions to the Respondents to grant full House Rent Allowance [HRA] to the Petitioner @24% of Basic Pay w.e.f. 30th May 2016 till 30th June 2017 and HRA @ 5% of Basic Pay for the period w.e.f. 01st July 2017 to 30th April 2018. Petitioner seeks entire arrears of HRA along with 18% interest from the date it become due and payable.

2. Learned counsel for the Petitioner states that the Petitioner was not given any HRA from 30th May 2016 to 30th June 2017 and was given a reduced HRA @ 19% of Basic Pay w.e.f. 01st July 2017 to 30th April 2018 by the Respondents. He points out that w.e.f. 01st May 2018, full HRA @ 24% of the basic pay was rightly paid to the Petitioner.

3. He states that the issue is no more *res-integra* as this Court vide numerous judgments has granted full HRA @ 24% of basic pay to similarly situated persons. He states that the case of the Petitioner is squarely covered by the judgment dated 23rd May 2008 of the Division Bench of this Court in ***Inspector (Ex.) Jaspal Singh Mann vs. Union of India & Ors., 2009 ILR 1 Delhi 165*** which has been followed by this Court in several other writ petitions.

4. He relies on the judgment dated 30th August, 2017 passed in ***W.P. (C) 6720/ 2016 titled Anand Kumar v. Union of India***, whereby this Court relied on the judgment in the case of ***Inspector (Ex.) Jaspal***



Singh Mann (supra) and granted the HRA even when outliving permission had been rejected by the respondent department. Therefore, he states that the stand of the respondent department that neither Petitioner sought nor he was granted the outliving permission and thus cannot be granted HRA is wrong, erroneous and bad in law.

5. He submits that Sub-rule 2 of Rule 61 of the CISF Rules, 2001 is unambiguous inasmuch as, it says that those who cannot be provided with free accommodation shall be provided HRA in lieu thereof.

6. He states that since the respondents were unable to provide family accommodation to the Petitioner when he was posted at IPGCL, he had no choice but to hire family accommodation at his own expense and stay outside the unit with his family.

7. Having heard learned counsel for the parties, this Court is of the view that the issue of grant of the additional HRA @ 5% has been decided by this Court by way of its judgment dated 08th September 2021 passed in **W.P.(C) No.9853/2021** titled **Surender Pal Singh** (supra). The said order is reproduced hereinbelow:-

1. *The hearing has been done by way of video conferencing.*

2. *Present writ petition has been filed challenging the office order dated 31st August, 2017 issued by the Respondents for giving reduced HRA to CISF personnel. Petitioner also seeks directions to the Respondents to pay balance 5% HRA from July, 2017 to January, 2021 by following the orders passed by this court in W.P.(C) No. 4839 of 2019 dated 18th December, 2019 as well as in W.P(C) 4148/2021 dated 5th April, 2021 and to pay entire arrears along with 18% interest from the date it became due and payable.*

3. *Issue notice.*



4. *Mr. Tyagi, learned counsel for the respondents accepts notice.*

5. *Admittedly, the issue raised in the present writ petition is no longer res integra as this Court in W.P.(C) 4839/2019 titled **Brijesh Kumar vs. Director General, Central Industrial Security Force** vide order dated 18th December, 2019 has granted similar reliefs. The said order is reproduced hereinbelow:-*

“1. The prayer in this petition is as under:

a) Pass a writ of mandamus directing the respondent to grant full HRA from 5.4.2017 to 30.6.2017, ie @24% of Basic Pay, 5 % HRA from 1.7.2017 to 15.9.2017 and 5% HRA with TPT from 15.9.2017 to the date of final disposal, of the present petition, to the petitioner.

b) Pass a writ of mandamus directing the respondents to grant HRA along with TPT to the petitioner whenever the respondents are unable to give family accommodation at the place of posting.

c) Quash and set aside the office dated 31.8.2017 issued by the respondent for giving reduced HRA to the CISF personal as the same is illegal and ultra virus to the constitution of India.

d) Direct the respondents to pay entire arrears along with 18% interest from the date it become due and payable.

e) To direct the respondent to pay costs of this litigation.

f) Any other further order/relief which is Hon'ble Court may deem fit and proper in the facts and circumstances of the case, may also be passed in favour of the petitioner and as against the respondent.”

2. On an identical issue there are several decisions of this Court in favour of the Petitioners, a sampling of which is as under:

i. Jaspal Singh Mann v. Union of India 2009 ILR 1 Delhi 165 (the SLP against which filed by the Union of India has been dismissed).

ii. Decision dated 30 August, 2013 in W.P. (C) 6720 of 2016 (Anand Kumar v. Union of India)



iii. *Decision dated 13th November, 2018 in W.P (C) No. 6085/2017 (Arvind Kumar Jatav v. Union of India).*

iv. *Judgment dated 26.02.2019 in W.P (C) No. 11415/2017 (Sahik Abdul Khalik v. Director of General)*

3. *Learned counsel for the Respondents states that SLPs have been filed in the Supreme Court against the decisions at (ii) to (iv) above and are pending there. He however does not dispute that there is no stay granted in any of the said SLPs.*

4. *Since the relief sought by the Petitioners are fully covered the aforesaid decisions of this Court, this Court allows the writ petition and directs the respondent to grant petitioner full house rent allowance (HRA) from 5th April, 2017 to 13th June, 2019, i.e. @ 24% of basic pay, 5% HRA from 1st July, 2017 to 15th September, 2017 and 5% HRA along with transport allowance from 15th September, 2017 till date.*

5. *The above amount shall be paid within 12 weeks. Future payment of HRA will continue be made as long as the Petitioners are entitled thereto. 6. The petition along with pending application are disposed of in the above terms."*

6. *Though, the Special Leave Petition is pending consideration before the Apex Court, yet there is no stay. Accordingly, this Court disposes of the present writ petition in accordance with the judgment and order dated 18th February, 2019 in W.P.(C) 4839/2019 and directs the respondents to pay the balance 5% HRA to the petitioners from February, 2017 to January, 2021 within twelve weeks. With the aforesaid direction, the present writ petition alongwith pending applications stands disposed of.*

8. Accordingly, this Court disposes of the present writ petition in accordance with the judgment and order dated 8th September, 2021 in W.P.(C) 9853/2021 and directs the Respondents to pay full house rent



allowance to the Petitioner @ 24% of basic pay w.e.f. 30th May 2016 till 30th June 2017 and HRA @ 5% of Basic Pay for the period w.e.f. 01st July 2017 to 30th April, 2018 within twelve weeks.

9. With the aforesaid direction, the present writ petition stands disposed of.

MANMOHAN, J

NAVIN CHAWLA, J

**JANUARY 06, 2021
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