

09.02.2023
DL-37
(PP)
Ct.21

IN THE HIGH COURT AT CALCUTTA
CONSTITUTIONAL WRIT JURISDICTION
APPELLATE SIDE

WPA 18738 of 2022

Shubhra Banerjee
Vs.
The State of West Bengal & Ors.

Mr. Syed Mansur Ali,
Ms. Tanuja Basak

....for the petitioner.

Mr. Santanu Kr. Mitra,
Mr. Subhabrata Das

....for the State.

Mr. S. S. Koley

...for the respondent no.3/DPL.

Mr. Srijan Nayak,
Ms. Rituparna Maitra

...for the respondent no.7.

The petitioner claims House Rent Allowance (in short, "HRA") being an employee of Durgapur Projects Limited (DPL). The petitioner's case is that even though the petitioner's husband is an employee of DPL, both the petitioner and her husband are entitled to HRA.

Mr. Syed, learned counsel, appearing on behalf of the writ petitioner relies on Clause 8 of the guidelines followed by DPL as per ROPA 2021 for grant of HRA. Clause 8 reads as follows:

"8. House Rent Allowance (HRA):

- (i) *House Rent Allowance will be allowed @ 16% (Sixteen per cent) of basic pay subject to maximum of Rs.16,000/- (Rupees Sixteen Thousand) only. However, employees drawing HRA more than*

Rs.16,000/- per month, in the pre-revised scale will continue to get that amount of HRA which will be protected at that limit only and will not be increased any further.

- (ii) In case of an employee whose spouse is working with DPL and posted at the same location, HRA will be admissible to any of them as per their option, subject to maximum ceiling of Rs.16,000/- (Rupees sixteen thousand) only. In case of any employee whose spouse is working at a different location and not residing in Company Quarters. HRA will be admissible for both of them. However, in the event of both having common residential address, only one of them will be eligible for HRA. In the later case, no HRA will be admissible if they are residing in Company Quarters.*
- (iii) Spouse working in any Organization (State/Central Govt./PSU/Private etc.):*
 - b) Spouse working in any other Organisation (State/Central Govt./PSU/Private etc.) and living separately beyond the distance of 50 Kms. and above, full HRA may be admissible to the employee.”*

It is submitted on behalf of the petitioner that she and her spouse did not reside at the same location since one is posted at Bidhannagar CCC and residing at Rabindra Pally Block – C, Durgapur-I and the other is working at Jamuria CCC and is residing at Jamuria in a rental accommodation.

From the supplementary affidavit filed by Mr. Koley, learned counsel appearing on behalf of DPL, it appears that the distance between two addresses mentioned by the petitioner is approximately 47 Kms.

Mr. Koley submits that since the distance is about 47 Kms., it cannot be held that the petitioner and her husband are working at different locations. The bar regarding claim on account of HRA for a spouse of an employee working in any other organisation of a distance of 50 kms. is also applicable to the spouse of an employee working in the same organisation. The issue whether or not the petitioner and her spouse are working at the same location will have to be considered keeping in mind the bar of 50 kms. He further submits that in the event the petitioner and her spouse are working at the same location, both being employees of DPL will not be entitled to HRA at the same time. Only one has to opt for payment of HRA.

Having considered the rival submissions of the parties and the materials placed on record, this Court finds that admittedly the distance between Jamuria CCC and Bidhannagar CCC is approximately 50 kms. Therefore, it cannot be said that the petitioner and her husband are working at different locations. The petitioner has also not disclosed rental receipts to

show that the petitioner and her husband have rented separate accommodations and do not have common residential address. An artificial distinction cannot be made between the conditions applicable to both the spouses working with DPL and one spouse working with DPL and the other with any organisation of State/Central Govt./PSU/Private etc. for grant of HRA.

This inevitably leads the Court to take a view that the present writ petition has been filed only for the purpose of extracting HRA for the petitioner herself and her spouse separately despite both being employees of DPL and working at nearby locations which for the purpose of interpretation of Clause 8 cannot be held to be “*different locations*”. Such a conduct on the part of the petitioner is not appreciated by this Court.

In the circumstances, **WPA 18738 of 2022** is dismissed.

All parties shall act on the server copies of this order duly downloaded from the official *website* of this Hon’ble Court.

Urgent photostat certified copies of this order, if applied for, be supplied to the parties upon compliance of all necessary formalities.

(Lapita Banerji, J.)