

DL-15 wt16

12.08.2024
Court No.26

(AD)

**FMA 268 of 2024
With
IA No.: CAN 1 of 2024**

**Tuhin Subra Seal and Ors.
Vs.
Union of India and Ors.**

With

**MAT 101 of 2024
With
IA No.: CAN 1 of 2024
with
IA No.: CAN 2 of 2024**

**Eastern Coalfields Limited and Ors.
Vs.
Tuhin Subra Seal and Ors.**

*Mr. Soumya Majumdar
Mr. Pratik Majumdar
Mr. Aniruddha Sinha
... for the appellants/writ petitioners in FMA 268 of
2024 and respondents in MAT 101 of 2024*

*Mr. Biswaroop Bhattacharya
Mrs. Priti Banerjee
... for the respondents in FMA 268 of 2024 and
for the appellants in MAT 101 of 2024.*

*Mr. Sukanta Ghosh
... for the Union of India*

1. Two appeals are before us. One Appeal is at the
behest of the writ petitioners/appellants and the

other is at the behest of the Eastern Coalfields Limited.

2. Appellants assail the order dated October 3, 2023 passed in WPA 1476 of 2022.
3. By the impugned order, learned Single Judge directed that, the writ petitioners whose names appear in the Serial Nos.1 to 17 of the supplementary affidavit will be entitled to House Rent Allowance (HRA) with effect from the dates of their applications. Eastern Coalfields Limited (in short, 'ECL') was directed to pay HRA within a period of three months from the date of the order.
4. Learned Advocate appearing for the ECL submits that, in the writ petition, persons who are not entitled to HRA joined the writ petition. Moreover, she submits that, there are two classes of employees who joined the writ petition as writ petitioners. She submits that, employees who are living in accommodation owned by them are granted HRA. Persons who are living in rented accommodation are not entitled to HRA as ECL are in possession of sufficient number of quarters to allot to such employees. She submits that, a section of the employees who were staying in rented accommodation, did not apply for quarter. Such employees cannot take advantage of their own wrong. She submits that, the policy decision recorded in the office order dated July 7, 2020

sought to address such an issue. The office order dated July 7, 2020 is a policy decision and should not be interfered with by a Writ Court lightly. She submits that, the policy decision of ECL enumerated in the office order dated July 7, 2020 contains reasons and, is relatable to the object sought to be achieved. The object sought to be achieved is prudent utilization of the vacant quarters available with ECL for the accommodation of its employees. Although, such accommodations are lying vacant, ECL are called upon to pay HRA since the employees are not applying for such quarters and are not residing therein. Some of the employees are residing in rented accommodation.

5. Learned Advocate appearing for the private respondents/ writ petitioners submits that, pursuant to the order of the appeal court, the writ petitioners who are residing in rented accommodation applied for quarters from the ECL and all were allotted such quarters. He draws the attention of the Court to the fact that allotment of four quarters are disputed. He submits that, two of them are in a dilapidated condition and the other two occupied by different persons. He submits that, suitable measures should be taken with regard thereto. That apart, he submits that, all the private respondents/writ petitioners are

entitled to House Rent Allowance till June 30, 2024 taking such date as a cut off date for the purpose of calculation of entitlement of HRA.

6. The private respondents/writ petitioners are executives of the ECL. ECL issued an office order dated July 7, 2020 enumerating therein its policy decision with regard to the payment of HRA to executives of the ECL residing in rented house with effect from July 1, 2020.
7. The Office Order dated July 7, 2020 which gave rise to the writ petition resulting in the impugned order is as follows:-

“Ref. no.: ECL/C-5(D)/Admn/301. Dated 07/07/2020

OFFICE ORDER

As a policy matter, it has been decided that payment of House Rent Allowance to Executives of ECL, HQ. residing in rented house will be kept under hold w.e.f. 1st July, 2020.

The Executives posted in ECL, HQ., who are residing in rented house and getting HRA are advised to submit application for allotment of quarter so that could be allotted as per availability.

This is issued with the approval of Competent Authority.

Dy. General Manager (Admn.)”

8. As noted above, such office order essentially puts on record the policy decision of ECL. The policy

decision of ECL is to withhold House Rent Allowance to such executives who are residing at rented accommodation, with effect from July 1, 2020.

9. Such office order dated July 7, 2020 also required the executives who are residing in rented house and obtaining House Rent Allowance to submit applications for allotment of the quarters so that they could be allotted as per availability.
10. During the pendency of the appeal, we observed that, all the writ petitioners/private respondents who are residing at rented accommodation should apply for allotment of quarters. We were informed that, the writ petitioners/private respondents who were residing in rented accommodation did so. ECL allotted quarters to all such applicants. This exercise took time and reasonably June 30, 2024 can be taken as the date of completion.
11. We perused the report filed today on behalf of the ECL with regard to the allegation that four of the quarters were either inhabitable or were occupied. ECL denied that any of those four quarters suffers from the impediments as alleged.
12. Since all the writ petitioners/private respondents are bound by the policy decision enumerated in the office order dated July 7, 2020 and, in fact, the private respondents/writ petitioners acted thereon, we are of view that, interest of justice

would be sub-served by issuing the following directions:

- (i) Executives covered under the office order dated July 7, 2020, who were allotted quarters pursuant to our orders, will occupy the same forthwith.
- (ii) Payment of HRA to them will stand suspended from July 1, 2024. They will, however, be entitled to HRA till June 30, 2024.
- (iii) So far as the four disputed quarters which forms the subject matter of the report filed today are concerned, the allottees will proceed to take possession thereof. No doubt, ECL will make over actual physical possession of all the four quarters to the respective allottees within seven days from date. If any request for renovation/repair is made by the allottees, again no doubt, ECL will consider the same in accordance with law.
- (iv) So far as executives who are staying in their own accommodation and drawing HRA are concerned, ECL are at liberty to call upon them to provide proof of ownership, if so advised. In the event of failure of such executives in providing requisite documents of ownership, ECL are at liberty to take

suitable steps as against them.

13. With the aforesaid observations and directions, **FMA 268 of 2024** with **MAT 101 of 2024** along with all connected applications thereof are disposed of without any order as to costs.

(Debangsu Basak, J.)

(Md. Shabbar Rashidi, J.)