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IN THE HIGH COURT OF DELHI AT NEW DELHI

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W.P.(C) 12115/2018

NAGENDRA PANWAR

.....Petitioner

Through: Mr.P.Sureshan, Adv.

versus

UNION OF INDIA & ORS

.....Respondents

Through: Mr.Rajesh Kumar, Mr.Rahul Kumar
Sharma & Ms.Mishika Pandita, Advs. with
Mr.Sanjay Kumar, SI, CISF

CORAM:

HON'BLE MS. JUSTICE REKHA PALLI

HON'BLE MS. JUSTICE SHALINDER KAUR

ORDER

23.08.2024

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1. The petitioner, who is serving as a Sub-Inspector (SI) in the Central Industrial Security Force (CISF), has approached this Court seeking the following reliefs:-

“a) Pass a writ of mandamus directing the respondent to grant HRA benefit to the petitioner for the period from 11.3.2000 to 20.1.2001, from 21.1.2001 to 11.11.2002, from 12.11.2002 to 21.11.2003, from 21.11.2003 to 27.9.2006, from 27.9.2006 to 1.3.2007 from 1.3.2007 to 23.6.2009, from 10.1.2014 to 5.12.2016, from 5.12.2016 to 1.9.2017 and full rate of HRA with TPT from 1.9.2017 till the disposal of the present writ petition and thereafter on the basis of legal provisions.

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 letter No 23608 dated 6.10.2017 issued by the respondent for giving reduced HRA in view of not attaining seniority as the same is illegal and ultra virus to the constitution of India.

d) Quash and set aside the letter No. 4370 dated 5.6.2018 issued by the Office of CISF whereby the payment of full TA/DA was denied to the petitioner by treating the transfer order dated 5.12.2016 issued on account of repatriation of the petitioner from Nepal Indian Embassy at Katmandu to New Delhi as same station transfer and thus direct them to pay balance TA/DA by considering the fact that the above transfer was different station transfer



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

f) To direct the respondent to pay costs of this litigation. g) 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. Learned counsel for the petitioner submits that the petitioner was on 10.01.2024 transferred to the Indian Embassy at Nepal, a non-family posting, and had to, therefore, leave his family at a rented accommodation in Delhi. However, after his transfer, the respondents stopped paying him House Rent Allowance (HRA) from 10.10.2014 to 05.12.2016. Consequently, the petitioner submitted a representation seeking release of his HRA for the aforesaid period, which remained undecided. The petitioner was thereafter transferred to Force Headquarters, Delhi where he was posted to CGBS Unit of CISF but was still not granted HRA and was therefore, compelled to submit yet another representation seeking release of HRA, which was illegally rejected on 06.10.2017.
3. He further submits that on 13.11.2018, he had already made a statement before this Court that the petitioner was confining his prayer for grant of HRA for a period of three years prior to the date of filing of the writ petition. He submits that since the decision dated 23.05.2008 in **W.P.(C) 1712/2006** titled ***Inspector/Exe. Jaspal Singh Mann v. Union of India & Ors.***, has attained finality, the respondents cannot now deny grant of HRA to the petitioner when it is an admitted position that no official family quarters were ever allotted to him during the said period.
4. *Per contra*, learned counsel for the respondents while not disputing



that the decision in ***Jaspal Singh (supra)*** has attained finality, submits that the petitioner was never granted Out Living Permission (OLP) and therefore, would not be entitled to HRA. Moreso, as per the existing policy of the respondents whenever an individual reports on his transfer / posting, he is granted out living permission with HRA, as per the seniority, which is provided to 45% of the Force personnel in lieu of family accommodation as the CISF Unit, IGI Airport, New Delhi has no family accommodation.

5. Having considered the rival submissions of the parties and perused the decision in ***Jaspal Singh (supra)***, we find absolutely no merit in any of the contentions of the respondents. In our view, once it is an admitted position that the respondents did not offer any family quarter to the petitioner during the aforesaid period for which he is claiming HRA, they cannot now be permitted to urge that the petitioner ought to have sought outliving permission. In our view, the very fact that the respondents do not even claim that any family accommodation was offered to the petitioner during this period is in itself sufficient to show that his claim for HRA is justified. We also find no merit in the respondents' plea that HRA can be provided only to 45% of the Force members as per their seniority as this very plea was taken by the respondents in ***Jaspal Singh (supra)*** and was rejected.
6. For the aforesaid reasons, the writ petition deserves to succeed and is, accordingly, allowed by directing the respondents to pay arrears of HRA to the petitioner w.e.f. 01.11.2015 (i.e. three years prior to the date of filing of the writ petition) as per the rate(s) applicable to the place(s) where the petitioner was posted during the said period.



Payment in terms of this order will be made within three months,
failing which the said amount will bear interest @ 6% p.a.

7. The writ petition stands disposed of in the aforesaid terms.

REKHA PALLI, J

SHALINDER KAUR, J

AUGUST 23, 2024/kk