$~102, 105, 112 and 113

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

% *Date of Decision: 28th October, 2026*

102

\# **CNR No. DLHC010515542026**

\+ **W.P.(C) 15816/2026**

JYOTI SWAROOP PATHAK .....Petitioner

Through: Mr. P. Sureshan, Advocate.

versus

UNION OF INDIA AND ORS .....Respondent

Through: Mr. Satyam Pahal, SPC with Mr.Sarthak Rana, G.P. along with Mr. J.P. Singh, AC and Mr. Yashpal, Inspector.

105

\# **CNR No. DLHC010515732026**

\+ **W.P.(C) 15833/2026**

GANESH CHOUDHARY .....Petitioner

Through: Mr. P. Sureshan, Advocate.

versus

UNION OF INDIA AND ORS .....Respondent

Through: Mr. Satyam Pahal, SPC with Mr.Sarthak Rana, G.P. along with Mr. J.P. Singh, AC and Mr. Yashpal, Inspector.

112

\# **CNR No. DLHC010516892026**

\+ **W.P.(C) 15868/2026**

NUTAN DEVI .....Petitioner

Through: Mr. P. Sureshan, Advocate.

versus

UNION OF INDIA AND ORS .....Respondent

Through: Mr. Satyam Pahal, SPC with

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Mr.Sarthak Rana, G.P. along with Mr. J.P. Singh, AC and Mr. Yashpal, Inspector.

113

\# **CNR No. DLHC010516902026**

\+ **W.P.(C) 15869/2026**

SONU KUMARI .....Petitioner

Through: Mr. P. Sureshan, Advocate.

versus

UNION OF INDIA AND ORS .....Respondent

Through: Mr. Satyam Pahal, SPC with Mr.Sarthak Rana, G.P. along with Mr. J.P. Singh, AC and Mr. Yashpal, Inspector.

CORAM:
HON'BLE MS. JUSTICE JYOTI SINGH
HON'BLE MR. JUSTICE GURVINDER PAL SINGH

JUDGEMENT

GURVINDER PAL SINGH, J. (ORAL)

CM APPL. 74002/2026 *(Exemption)* **in W.P.(C) 15816/2026**
CM APPL. 74036/2026 *(Exemption)* **in W.P.(C) 15833/2026**
CM APPL. 74337/2026 *(Exemption)* **in W.P.(C) 15868/2026**
CM APPL. 74338/2026 *(Exemption)* **in W.P.(C) 15869/2026**

1. Allowed, subject to all just exceptions.

2. Applications stand disposed of.

W.P.(C) 15816/2026

3. This writ petition is filed on behalf of the Petitioner under Article 226 of the Constitution of India seeking direction to the Respondents to grant full House Rent Allowance (HRA) to the Petitioner for the period from 26.05.2023 to 15.10.2025 during which he was posted at CISF Unit, IGI

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Airport, New Delhi, as he was not allotted the Government accommodation.

W.P.(C) 15833/2026

4. This writ petition is filed on behalf of the Petitioner under Article 226 of the Constitution of India seeking direction to the Respondents to grant full House Rent Allowance (HRA) to the Petitioner for the periods from 16.07.2019 to 27.02.2020, from 06.03.2020 to 31.01.2023 and from 15.06.2023 to 30.11.2025, during which he was posted at Bangalore Airport, Jammu Airport and CISF Unit, IGI Airport, New Delhi, respectively, as he was not allotted accommodation.

W.P.(C) 15868/2026

5. This writ petition is filed on behalf of the Petitioner under Article 226 of the Constitution of India seeking direction to the Respondents to grant full House Rent Allowance (HRA) to the Petitioner for the periods 12.10.2017 to 16.03.2022, from 17.03.2022 to 20.06.2024 and from 21.06.2024 to 01.05.2026 during which she was posted at Indore Airport, Bangalore Airport and CISF Unit, IGI Airport, New Delhi respectively, as she was not allotted accommodation.

W.P.(C) 15869/2026

6. This writ petition is filed on behalf of the Petitioner under Article 226 of the Constitution of India seeking direction to the Respondents to grant full House Rent Allowance (HRA) to the Petitioner for the period from 18.06.2022 to 30.12.2023, during which she was posted at CISF Unit, IGI Airport, New Delhi, as she was not allotted accommodation.

7. Learned counsel for the Petitioners submits that Petitioners were not provided accommodations by the CISF and were thus entitled to 30% HRA for the periods in question, however, only 25% was reimbursed and balance

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5% has not been paid till date. It is urged that cases of the Petitioners for payment of 5% balance HRA are squarely covered by the judgement of the Division Bench of this Court in ***Inspector/Exe. Jaspal Singh Mann v. Union of India & Ors, 2008 SCC OnLine Del 649,*** wherein Rule 61 of Central Industrial Security Force Rules, 2001 ('2001 Rules') came up for consideration and it was held that ordinarily, Government accommodation is provided to all supervisory officers in the ratio of 45% for married and 55% for unmarried or as may be amended by the Central Government from time to time, but where accommodation facility is not available, enrolled members of the Force will be entitled to get HRA in lieu thereof as applicable to other Central Government Employees. It was also held that HRA is not in the nature of a concession but forms a component of total salary as part of conditions of service and the object is to compensate an employee for the amenities which are not available to him though provided to other employees. Division Bench observed that transfer or posting is an incident of service and there cannot be a discrimination on question of grant of accommodation or HRA in lieu thereof on the basis of the station one is posted to. Plea of the Respondents that HRA was extendable only to a certain percentage of persons on the strength of the cadre for a particular town was not accepted, observing that the rationale or basis for creating an artificial category of persons who would be disentitled to accommodation or HRA was not understood. While there can be percentages assigned between different categories of personnel for distribution of the accommodation available, however, if the personnel is not granted family accommodation on account of being lower in seniority, HRA must follow.

8. Learned counsel submits that the judgment in ***Jaspal Singh Mann***

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(supra) was challenged by the Respondents before the Supreme Court but Civil Appeal 1132/2009 was dismissed and thereafter following this judgement, Division Benches in ***Shaikh Abdul Khalik and Another v. Director General and Others, 2019 SCC OnLine Del 7525; Brijesh Kumar v. Director General, Central Industrial Security Force & Ors, in W.P.(C) 4839/2019,*** decided on 18.12.2019***;*** and ***Anand Kumar v. Union of India and Ors., in W.P.(C) 6720/2016,*** decided on 30.08.2017, have re-affirmed that where accommodation is not provided to a member of the Force, full HRA must be given, without any co-relation to place of posting or seniority/percentage in respect of availability of accommodation. In W.P.(C) 8154/2024 titled ***Ashish Sharma v. Union of India and Ors.,*** decided on 21.05.2026 along with 109 other petitions, Respondents were directed to grant full HRA and release the arrears in three months without any reduction.

9. Learned counsels for the Respondents are unable to dispute the fact that Government accommodations were not provided to the Petitioners in these writ petitions during the periods, for which balance 5% HRA is sought or that the cases of the Petitioners are covered by the judgments relied upon.

10. Having heard learned counsels for the Petitioners, we find merit in their submissions. Indisputably, Petitioner in W.P.(C) 15816/2026 was posted at CISF Unit, IGI Airport, New Delhi during the period from 26.05.2023 to 15.10.2025; Petitioner in W.P.(C) 15833/2026 was posted at Bangalore Airport, Jammu Airport and CISF Unit, IGI Airport, New Delhi, during the periods from 16.07.2019 to 27.02.2020, 06.03.2020 to 31.01.2023 and 15.06.2023 to 30.11.2025 respectively; Petitioner in W.P.(C)

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15868/2026 was posted at Indore Airport, Bangalore Airport and CISF Unit, IGI Airport, New Delhi during the periods from 12.10.2017 to 16.03.2022, 17.03.2022 to 20.06.2024 and 21.06.2024 to 01.05.2026 respectively; and Petitioner in W.P.(C) 15869/2026 was posted at CISF Unit, IGI Airport, New Delhi for the period from 18.06.2022 to 30.12.2023. Since they were not allotted Government accommodations during these periods, they have sought 5% balance HRA as only 25% was reimbursed. As rightly argued on behalf of the Petitioners, their cases are covered on all four corners by the judgment of the Division Bench in ***Jaspal Singh Mann (supra)*** as also subsequent judgments, relying on this judgment.

11. In ***Jaspal Singh Mann (supra),*** Petitioner was aggrieved by non-grant of either rent free accommodation or HRA in lieu thereof and the reason for denial was that facility of accommodation was extendable only to certain percentage of persons on the strength of the cadre for a particular town, basis Rule 61 of 2001 Rules. Examining and interpreting Rule 61, Division Bench in ***Jaspal Singh Mann (supra),*** observed that plain reading of Rule 61(1) shows that the Force is required to provide accommodation to all supervisory officers in the ratio of 45% for married and 55% for unmarried or as amended by the Government from time to time. Sub-Rule (2) provides that accommodation shall be rent free but where such facility was not available, member of the Force would be entitled to HRA in lieu thereof, as applicable to other Central Government Employees and sub-Rule (3) provides that members of the Force are also entitled to compensation in lieu of married accommodation. It was held in no uncertain terms that HRA is not a concession but component of salary and hence, part of conditions of service, being in the nature of compensatory allowance in lieu of

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accommodation with the object of compensating an employee for amenities which are not available to him *albeit* provided to other employees. Noting that operation of Rule 61 and its interpretation has given rise to a situation where grant of accommodation or HRA has become dependent on the place of posting, Court held that while it is trite that transfer is an incident of service but Respondents post persons as per their requirements and therefore, there cannot be any discrimination on the question of grant of accommodation or HRA in lieu thereof on the basis of the station one is posted to. Significantly, Division Bench negated the plea of the Respondents that grant of HRA was linked to seniority of a member of the Force according to which, he was to be allotted the accommodation and held that the rationale or basis for creating an artificial category of persons who would be disentitled to an accommodation or HRA was not understood. It was ruled that there can be percentages assigned between different categories of personnel for allotment of accommodation, which is a natural corollary of shortage of accommodation and no grievance can be made on this aspect, however, if a personnel is not granted family accommodation owing to his lower seniority as per the percentage of distribution of family accommodation, HRA must follow.

12. Division Bench further observed that Rule 61 as sought to be interpreted by the Respondents would imply that not only is there a percentage distribution between different categories but persons falling outside the ambit of consideration would be deprived even of HRA and therefore, the only manner of reading the Rule which would sustain, would be that the Rule may not entitle a person to claim family accommodation if he is not at the required seniority but in that eventuality, he cannot be denied

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HRA. If Rule 61(1) and 61(3) are read together, the only conclusion can be that while there may be situation where a house may not be available for allotment to an officer at a particular station, he cannot be deprived of HRA. Any contrary interpretation will make the Rule discriminatory and hit by Article 14 of the Constitution of India, having no rationale or nexus with the object sought to be served. Relevant passages from the judgment are as follows:-

> *"7. A reading of the aforesaid Rule shows that the respondents Force is required to provide accommodation in the township itself to all the supervisory officers in the ratio of 45 per cent for married and 55 per cent for unmarried or as may be amended by the Central Government from time to time. Sub-rule 2 provides that the accommodation shall be rent-free but where such facilities are not available, the members would be entitled to get House Rent Allowance (HRA) in lieu thereof as applicable to other Central Government employees. Sub-rule 3 provides that the members of the force are also entitled to compensation in lieu of married accommodation in terms of orders issued by the Government from time to time and the compensation shall be payable to that percentage of members of Force who are entitled to get married accommodation minus (-) those members who have got accommodation by the Undertaking.*
>
> *xxx xxx xxx*
>
> ***12**. We have examined the rival contentions of the parties. The first aspect to be considered is the concept of the HRA itself. HRA is not in the nature of a concession but it forms a component of the total salary as part of condition of service. It is in the nature of a compensatory allowance in lieu of accommodation. Thus, the object is to compensate an employee for the amenities which are not available as provided to other employees. The service personnel of the CISF and other CPOs while posted in different stations are thus granted accommodation and in case of shortage of the same HRA is paid.*
>
> ***13.** The operation of Rule 61 of the said Rules and its interpretation has given rise to a situation where the grant of such accommodation or HRA in lieu thereof is sought to be made dependent where a person is posted.*
>
> ***14.** It is trite to say that the transfer or posting is an incident of service. The respondents post such persons at different stations according to their requirement and thus there cannot be any discrimination on the question of the grant of accommodation or HRA in lieu thereof on the basis of such station one is posted to. Thus, merely because the petitioner comes to be*

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posted at Delhi from Amritsar he cannot be deprived the HRA.

15. *Another aspect to be noted is that in some of the para-militarv forces. 100 per cent of the force is being granted family accommodation or HRA in lieu thereof giving rise to discrimination between personnel of paramilitary forces and thus principles as laid down in Union of India v. Dineshan K.K. case (supra) would equally apply.*

xxx *xxx* *xxx*

17. *We fail to appreciate either the rationale or the basis for creating an artificial category of persons who would be disentitled to an accommodation or HRA. There can be percentages assigned between different categories of personnel for distribution of the accommodation available. This is a natural corollary of shortage of accommodation. The petitioner cannot make a grievance in respect of the same. However, if a personnel is not granted a family accommodation on account of his seniority being lower in his category of persons as per the percentage of distribution of family accommodation. HRA must follow. The rule as sought to be interpreted would imply that not only is there a percentage distribution between different categories but the persons falling outside the ambit of consideration would be deprived even of the HRA. The only manner of reading the Rule which would sustain would be that Rule 61 of the said Rules would not entitle a person to claim family accommodation if in the percentage of distribution as per sub-rule 1 of Rule 61 of the said Rules, he is not of sufficient seniority but in that eventuality he is entitled to the HRA in lieu thereof as applicable to the Central Government employees. Sub-rule 2 of Rule 61 of the said Rules is unambiguous inasmuch as it says that those who cannot be provided with a free accommodation because of the paucity of accommodation which has to be distributed in the ratio of 45 per cent: 55 per cent in case of married and unmarried officials, shall be provided HRA in lieu thereof. If Rule 61(1) and Rule 61(3) of the said Rules are read together, the only conclusion which can be derived is that while there may be a situation where there may not be a house available for allotment to an officer posted at a particular station, he still would be entitled to HRA. However, in case where a person is entitled to married accommodation but is provided with unmarried accommodation, then he may also be entitled to compensation in lieu of married accommodation in addition to the allotment of house available for unmarried category if he wants to occupy the said house.*

18. *Reading of Rule 61 of the said Rules in the manner as stated above would also imply, that the Government circulars on which much reliance has been placed upon by learned counsel for the respondents, i.e. the circulars dated 30.3.2000 and 27.11.1980. is misconceived inasmuch as, those circulars cannot override, the Statute, that is, Rule 61(2) of the said Rules.*

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> ***19.*** *A contrary interpretation would make the Rule discriminatory and hit by Article 14 of the Constitution of India having no rational or nexus with the object sought to be served. It can hardly be the intent of the respondents that the grant of HRA is dependent on a chance factor as to where a person is posted. In fact, this may itself result in unnecessary representations and pressures by persons for being posted to places where they would be entitled to such an HRA as posting in other places may deprive them of this entitlement. Housing in most parts of the country is expensive and a large expense for a service personnel. The grant of such HRA. thus, cannot vary from town to town except to the extent that the amount of HRA would vary dependent on the classification of the town/city.*
>
> ***20.*** *We also find it a discriminatory practice where personnel of other para-military forces who are identically situated may be getting an accommodation or HRA in lieu thereof for all the personnel posted in that station while such benefit is sought to be denied in other para-military services.*
>
> ***21.*** *We are, thus, of the considered view that persons in the service of the respondents when posted to any station would be entitled to either accommodation or HRA in lieu thereof as per the Central Government norms, the value of reimbursement being dependent on the city where they are posted.*
>
> ***22.*** *A writ of mandamus is issued directing the respondents to pay to the petitioner the HRA in lieu of a family accommodation from the date the petitioner became entitled to claim such family accommodation and Rule 61 of the said Rules is accordingly read down to imply that such entitlement would be within the parameters of the said Rules. A reading down of such rule is permissible so as to uphold the said Rule as the alternative would be to quash the rule as violative of the Constitution of India and an interpretation which would sustain the rule and yet make it not arbitrary or discriminatory by reading down the same will be course of action which would be appropriate. The arrears be paid to the petitioner within a period of three (3) months from today.*"

13. Therefore, it is clear from a reading of the judgment that owing to low seniority of the member of the Force, facility of accommodation may not be available to him, however, he cannot be deprived of HRA in lieu thereof. As rightly placed by counsel for the Petitioners, post the judgment in ***Jaspal Singh Mann (supra),*** several Division Benches of this Court have held that

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where Respondents are unable to provide accommodation and member of the Force hires accommodation at his own expense, he cannot be denied the benefit of full HRA and in this context, we may allude to the judgments in ***Shaikh Abdul (supra); Brijesh Kumar (supra); Anand Kumar (supra);*** and ***Ashish Sharma (supra).*** It is pertinent to mention that the judgment in ***Jaspal Singh Mann (supra)*** was upheld by the Supreme Court in Civil Appeal No. 1132/2009 and judgment in ***Brijesh Kumar (supra)*** was upheld in ***Union of India and Ors. v. Paramisivan M., Civil Appeal No. 4967/2023*** along with connected matters. Review petition filed in ***Paramisivan M. (supra)*** was also dismissed. In fact, Department of Expenditure, Ministry of Finance, Government of India has issued Office Memorandum (OM) dated 07.07.2017 fixing percentages of HRA payable to Government Servants in lieu of Government accommodation. Recently, Division Bench has allowed a batch of 110 petitions by a common order in ***Ashish Sharma (supra),*** holding Petitioners entitled to grant of full HRA and consequently, directing reimbursement of balance 5%.

14. In view of the aforesaid judgements, which squarely apply to the instant cases, we hold that Petitioner in W.P.(C) 15816/2026 is entitled to reimbursement of full HRA for the period from 26.05.2023 to 15.10.2025; Petitioner in W.P.(C) 15833/2026 is entitled to reimbursement of full HRA for the periods from 16.07.2019 to 27.02.2020, 06.03.2020 to 31.01.2023 and 15.06.2023 to 30.11.2025; Petitioner in W.P.(C) 15868/2026 is entitled to reimbursement of full HRA for the periods from 12.10.2017 to 16.03.2022, 17.03.2022 to 20.06.2024 and 21.06.2024 to 01.05.2026; and Petitioner in W.P.(C) 15869/2026 is entitled to reimbursement of full HRA for the period from 18.06.2022 to 30.12.2023 and consequently, reduction of

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5% HRA is untenable in law. Respondents are directed to release the balance amount towards HRA due to the Petitioners, within a period of three months from today. If the arrears are not paid within the time granted by the Court, Petitioners will be entitled to simple interest at the rate of 6% p.a. till actual payment.

15. Writ petitions stand disposed of in the aforesaid terms.

GURVINDER PAL SINGH, J

JYOTI SINGH, J

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