



**IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION**

CIVIL APPEAL NO(S). _____ OF 2024
(Arising out of SLP(Civil) No(s). 43 OF 2022)

R.K. MUNSHI

....APPELLANT(S)

VERSUS

**UNION TERRITORY OF JAMMU & KASHMIR
AND ORS.**

....RESPONDENT(S)

J U D G M E N T

Mehta, J.

1. Leave granted.
2. This appeal is directed against the judgment dated 27th September, 2021 passed by the learned Division Bench of the High Court of Jammu and Kashmir and Ladakh at Jammu in LPA No. 38 of 2020 whereby, the learned Division Bench rejected the Letters Patent Appeal preferred by the appellant and affirmed the order dated 19th December, 2019 passed by the learned Single Judge in SWP No. 3440 of 2014 rejecting the writ petition filed by the appellant.

3. Succinctly stated facts relevant and essential for disposal of the appeal are that the appellant herein was working as an Inspector(Telecom) in Jammu and Kashmir Police, 4th Battalion. He superannuated from services on 30th April, 2014. The appellant received a communication from the Director Police, Telecom regarding recovery of the outstanding rentals on account of unauthorized drawals of House Rent Allowance(hereinafter being referred to as 'HRA') by the appellant. The said action was taken under Rule 6(h) of The Jammu and Kashmir Civil Services (House Rent Allowance and City Compensation Allowance) Rules, 1992(hereinafter being referred to as 'Rules of 1992') in pursuance of a complaint received by the authorities wherein, it was alleged that the appellant was availing Government accommodation and simultaneously drawing HRA. Notice was given to the appellant to deposit a sum of Rs.3,96,814/- determined to have been drawn by him as HRA without entitlement. By this very notice, the appellant was given a chance to produce documents in proof to indicate that the quarter in question, i.e., quarter No. 6-A was not under his occupation/possession. As the appellant failed to satisfy the authorities in this regard, the recovery notice was issued which

was subjected to challenge in the writ Court and the Letters Patent Appeal albeit unsuccessfully.

4. Learned counsel Ms. Purnima Bhat, appearing on behalf of the appellant urged that indisputably, the quarter in question had been allotted in the name of appellant's father who was a Retd. Deputy Superintendent of Police. The appellant occasionally shared the official accommodation allotted to his father. She urged that the High Court glossed over the relevant clauses of Rule 6(h) of Rules of 1992 while dismissing the writ petition as well as the appeal filed by the appellant, inasmuch as only, one part of the said rule was considered while ignoring the part which favourably covers the case of the appellant. The pertinent contention raised by the learned counsel was that had the High Court considered the provisions contained in Rule 6(h)(iv), the recovery notice could not have been sustained.

5. For the sake of ready reference, Rule 6(h) of Rules of 1992 is reproduced hereinbelow: -

“6. The grant of House Rent Allowance shall be subject to the following conditions:

(a)-(g).....

(h) A Govt employee shall not be entitled to House Rent Allowance if:

- (i) he/she shares accommodation allotted rent free to another Govt servant.
- (ii) he/she resides in accommodation allotted to his/her parents, son, daughter by the Govt;
- (iii) his wife/her husband has been allotted accommodation at the same station by the Govt whether he/she resides in that accommodation or he/she resides separately in accommodation rented by him/her.
- (iv) In cases where husband/wife/parents, children two or more of them being State Govt servants or employees of Central Govt, Autonomous Public Undertakings or semi Govt Organizations share accommodation allotted to another Government Servant, House Rent Allowance will be admissible to only one of them at their choice.
- (v)....”

6. It was contended that admittedly quarter No. 6-A was allotted to the appellant’s father, Deputy Superintendent of Police, who retired from the post as a Gazetted Officer, and was a displaced Kashmiri *pandit*. Thus, the appellant cannot be charged HRA on account of occasional shared residence in the said quarter. She thus, implored the Court to set aside the impugned orders and the recovery notice.

7. *Per contra*, Mr. Parth Awasthi learned counsel appearing on behalf of the State vehemently and fervently opposed the submissions advanced by the learned counsel for the appellant. He urged that indisputably, the appellant enjoyed residence in the

Government quarter allotted to his father and thus by virtue of Rule 6(h)(i) and (ii) reproduced *supra*, he was not entitled to claim HRA. He thus, submitted that the impugned recovery notice is justified in the eyes of law.

8. We have given our thoughtful consideration to the submissions advanced at bar and have gone through the material available on record.

9. The father of the appellant herein namely, Mr. H.K. Munshi had retired way back in the year 1993 and thus, it is axiomatic that he would not be entitled to claim HRA after demitting office. True it is that quarter No.6-A had been allotted to the appellant's father as being a displaced Kashmiri *pandit* and a retired Government servant, but the fact remains that he would not be entitled to HRA after superannuation from service. Thus, reliance placed by learned counsel for the appellant on Rule 6(h)(iv) is misplaced as the said provision has no application to the situation at hand. Rule 6(h)(i) and 6(h)(ii) which were pressed into service by the High Court for rejecting the challenge laid by the appellant to the recovery notice clearly cover the controversy. By virtue of these two clauses, the appellant being a Government employee, could not have claimed HRA while sharing rent free accommodation

allotted to his father, a retired Government servant. There is no infirmity in the impugned orders warranting interference.

10. As a consequence, the appeal is dismissed as being devoid of force.

11. No order as to costs.

12. Pending application(s), if any, stand disposed of.

.....J.
(B.R. GAVAI)

.....J.
(SANDEEP MEHTA)

**New Delhi;
May 02, 2024.**