

IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION

Civil Appeal No.4967/2023

UNION OF INDIA & ORS.

Appellant(s)

VERSUS

PARAMISIVAN M.

Respondent(s)

WITH

CIVIL APPEAL NO.2080/2024(@SLP(C) No. 4046/2019), CIVIL APPEAL  
NO.2081/2024(@SLP(C) No. 7794/2019), CIVIL APPEAL  
NO.2082/2024(@SLP(C) No. 6699/2019), CIVIL APPEAL NOS.2083-  
2084/2024(@SLP(C) Nos.5339-5340/2019), CIVIL APPEAL  
NO.2085/2024(@SLP(C) No. 7111/2019), CIVIL APPEAL  
NO.2086/2024(@SLP(C) No. 7745/2019), CIVIL APPEAL  
NO.2087/2024(@SLP(C) No. 13747/2019), CIVIL APPEAL  
NO.2088/2024(@SLP(C) No.3679/2024) (@Diary No.20581/19, CIVIL  
APPEAL NO.1527/2024(@SLP(C) No. 6459/2018), CIVIL APPEAL  
NO.1528/2024(@SLP(C) No. 6463/2018), CIVIL APPEAL  
NO.1529/2024(@SLP(C) No. 6464/2018), CIVIL APPEAL  
NO.1530/2024(@SLP(C) No. 6465/2018), CIVIL APPEAL  
NO.1531/2024(@SLP(C) No. 6462/2018), Civil Appeal No.2074/2024  
@ SLP(C) No.3677/2024(@Diary No.3799/2018, CIVIL APPEAL  
NO.2075/2024(@SLP(C) No. 13824/2018), CIVIL APPEAL  
No.3678/2024 @ SLP(C) No.2076/20024(@Diary No.4095/2018, CIVIL  
APPEAL No.4968/2023, CIVIL APPEAL NO.2077/2024(@SLP(C) No.  
8200/2018), CIVIL APPEAL No.2078/2024(@SLP(C) No. 21269/2018)  
& CIVIL APPEAL No.2079/2024(@SLP(C) No. 23328/2018)

O R D E R

1. Delay condoned.
2. Leave granted in Special Leave Petitions.
3. Heard Ms. Aishwarya Bhati, learned Additional Solicitor General of India appearing for the appellants. Mr.Sureshan P., learned counsel

appears for the respondents.

4. These matters pertain to House Rent Allowance for the accommodation being provided to the Personnel Below Officer Rank (PBOR) serving in the Central Industrial Security Force (CISF).

5. The High Court in granting relief to the writ petitioners referred to Rule 61 of the Central Industrial Security Forces Rules, 2010 which reads as under:-

"61. Free accommodation. -

(1) Normally, the undertaking where the Force has been deputed shall provide accommodation in the township itself to all supervisory officers and at the rate of 45 per cent married and 55 per cent unmarried or as amended by the Central Government from time to time, to the enrolled members of the Force.

(2) The accommodation to the enrolled member of the Force shall be rent-free but where such facilities are not available they shall get house rent allowance in lieu thereof as applicable to other central government employees.

(3) The members of the Force shall also get compensation in lieu of married accommodation in terms of orders issued by the Government from time to time in this respect. The compensation shall be payable to that percentage of members of the Force who are entitled to get married accommodation minus those members of the Force who are allotted accommodation by the Undertaking .

(4) Supervisory officer of the Force who is provided accommodation by the Public Sector Undertakings or allotted accommodation by Directorate of Estate will pay licence fee to the Public Sector Undertakings at the rates as applicable to their own employees or the licence fee as fixed by the Central Government for genera pool accommodation from time to time with reference to plinth area of accommodation as the case may be."

6. The above Rule came to be interpreted in the case of "*Jaspal Singh Mann Vs Union of India & Ors*" by the High Court of Delhi in Civil Writ Petition No.1712/2006. The Court noted that the writ petitioner is employed in the CISF and was, therefore, entitled for

official accommodation but the same was not given to him. Since neither rent free accommodation was provided nor House Rent Allowance (HRA), the Writ Petition came to be filed.

7. The High Court while deciding the case of Jaspal Singh (supra) held as follows:-

"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

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

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

16. The appointment letter issued to the appellant itself stated that allowances as admissible and sanctioned by the Central Government would apply and HRA is payable as per CCS (HRA) Rules as admitted by the respondents.

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 appellant 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".

8. According to the High Court, if Rule 61 is interpreted in the manner suggested by the Union of India, it will be discriminatory and will fall foul of the principles of Article 14 of the Constitution. In fact, no rationale nexus with the object relating to grant of HRA, for discriminatory treatment was found by the Court. Consequently, Writ of mandamus was issued directing the employer to pay the HRA in lieu of family accommodation from the date the petitioner became entitled to claim such family accommodation. The Rule 61 of the CISF Rules was accordingly read

down to imply that such entitlement will be within the parameters of such rules. In other words, where the employer was unable to provide family accommodation within the township to the enrolled personnel, they will be entitled to HRA. If the dues are not paid within three months, they were to carry interest @8%.

9. The above Judgment of the High Court in Jaspal Singh (supra) came to be challenged by the Union of India and the Civil Appeal No.1132/2009 came to be dismissed by this Court through an order dated 20-2-2009. In dismissing the appeal, this Court took note of the Office Memorandum dated 16-2-2009 produced by the then Additional Solicitor General.

10. The impugned Judgment of the High Court is a follow-up of the above Judgment, in Jaspal Singh Mann (supra).

11. Having considered the basis for the interpretation given in Jaspal Singh Mann (supra) and upon consideration of the rival submissions of the learned counsel for the parties, we see no reason to disturb the view taken in favour of the respondents, by the High Court.

12. The appeals are, accordingly dismissed.

13. The amount which the respondents are, therefore, entitled towards HRA, should be disbursed within three months. If it is not paid within three months, the payable amount will carry interest @8%, as was ordered by the High Court. The interest will be calculated from the date of judgment passed by the Division Bench of the High Court in favour of the respondents.

CIVIL APPEAL NOS.2089-2090/2024 (@SLP(C) Nos. 10063-10064/2020), CIVIL APPEAL NOS.2091-2092/2024 (@SLP(C) Nos.16424-16425/2021), CIVIL APPEAL NO.2093/2024 (@SLP(C) No.1617/2022 & CIVIL APPEAL NO.2094/2024 (@SLP(C) No. 3598/2023):-

In this batch of 4 Civil Appeals, the appellants have challenged the order passed by the High Court, allowing the writ petition and directing the appellants to grant balance 5% HRA for the concerned period along with interest @ 18% per annum together with all other admissible allowances.

In view of order passed today i.e. 8.2.2024 in the batch of 21 appeals, the present appeals are also disposed of on the same understanding and with the same directions, as was given in the said matters.

.....J  
(HRISHIKESH ROY)

.....J  
(PRASHANT KUMAR MISHRA)

NEW DELHI  
8TH FEBRUARY, 2024.

ITEM NO.102

COURT NO.6

SECTION XIV-A

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

Civil Appeal No.4967/2023

UNION OF INDIA &amp; ORS.

Appellant(s)

VERSUS

PARAMISIVAN M.

Respondent(s)

([ GROUP MATTER ] )

WITH

SLP(C) No. 4046/2019 (XIV)

SLP(C) No. 7794/2019 (XIV)

SLP(C) No. 6699/2019 (XIV)

SLP(C) Nos. 5339-5340/2019 (XIV)

SLP(C) No. 7111/2019 (XIV)

SLP(C) No. 7745/2019 (XIV)

SLP(C) No. 13747/2019 (XIV)

Diary No.20581/2019 (XIV)

(FOR CONDONATION OF DELAY IN FILING SLP ON IA 91393/2019)

SLP(C) Nos.10063-10064/2020 (XIV)

(FOR ADMISSION and I.R.)

SLP(C) Nos.16424-16425/2021 (XIV)

(IA No. 131690/2021 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT)

SLP(C) No. 1617/2022 (XIV)

(FOR ADMISSION)

C.A. No. 1527/2024 (XIV-A)

(IA No. 29316/2018 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT)

C.A. No. 1528/2024 (XIV-A)

C.A. No. 1529/2024 (XIV-A)

C.A. No. 1530/2024 (XIV-A)

SLP(C) No. 3598/2023 (XIV)

(IA No. 185843/2022 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT)

C.A. No. 1531/2024 (XIV-A)

Diary No.3799/2018 (XIV)

(FOR CONDONATION OF DELAY IN FILING SLP ON IA 23105/2018)

SLP(C) No. 13824/2018 (XIV)

Diary No.4095/2018 (XIV)

(FOR CONDONATION OF DELAY IN FILING SLP ON IA 23062/2018)

C.A. No. 4968/2023 (XIV-A)

(FOR STAY APPLICATION ON IA 27654/2019)

SLP(C) No. 8200/2018 (XIV)

SLP(C) No. 21269/2018 (XIV)

SLP(C) No. 23328/2018 (XIV)

Date : 08-02-2024 These matters were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE HRISHIKESH ROY  
HON'BLE MR. JUSTICE PRASHANT KUMAR MISHRA

For Appellant(s)

Mrs. Aishwraya Bhati, A.S.G.  
Mr. V Chitambaresh, Sr. Adv.  
Mr. V V V Pattabhi Ram, Adv.  
Mr. Sharath Nambiar, Adv.  
Mr. Adit Khorana, Adv.  
Mrs. Shruti Agrawal, Adv.  
Mr. Rajesh Kumar Singh, Adv.  
Ms. Shruti Agarwal, Adv.  
Mr. Rajesh Singh, Adv.  
Ms. Poornima Singh, Adv.  
Mr. Anirudh Singh, Adv.  
Mr. Arvind Kumar Sharma, AOR

For Respondent(s)

Ms. Alpana Pandey, Adv.  
Mr. Girijesh Pandey, Adv.  
Mr. Sohan Lal Adak, Adv.  
Mr. Ajay Kumar Tiwari, Adv.  
Mr. Ramjee Pandey, AOR  
  
Mr. Deepak Goel, AOR  
Ms. Alka Goyal, Adv.  
Ms. Harshita Maheshwari, Adv.  
Ms. Archana Priti Gupta, Adv.  
  
Mr. Sureshan P., AOR  
Mr. Shivam Yadav, Adv.  
Mr. Deepak Joshi, Adv.

UPON hearing the counsel the Court made the following

O R D E R

Civil Appeal No.4967/2023, SLP(C) No. 4046/2019), SLP(C) No. 7794/2019), SLP(C) No. 6699/2019), SLP(C) Nos.5339-5340/2019), SLP(C) No. 7111/2019), SLP(C) No. 7745/2019), SLP(C) No. 13747/2019), Diary No.20581/19), SLP(C) No. 6459/2018), SLP(C) No. 6463/2018), SLP(C) No. 6464/2018), SLP(C) No. 6465/2018), SLP(C) No. 6462/2018), Diary No.3799/2018, SLP(C) No. 13824/2018), Diary No.4095/2018, CIVIL APPEAL No.4968/2023, SLP(C) No. 8200/2018), SLP(C) No. 21269/2018) & SLP(C) No. 23328/2018):-

1. Delay condoned.
2. Exemption Applications are allowed.
3. Leave granted in Special Leave Petitions.



4. The appeals are dismissed, in terms of the signed order

SLP(C) Nos. 10063-10064/2020), SLP(C) Nos.16424-16425/2021), SLP(C) No.1617/2022 & SLP(C) No. 3598/2023):-

1. Leave granted

2. The appeals are disposed of, in terms of the signed order.

(VISHAL ANAND)  
ASTT. REGISTRAR-cum-PS

(KAMLESH RAWAT)  
ASSISTANT REGISTRAR

(Signed Order is placed on the file)