

Permissibility of HRA for Working Couples Living Separately

GOVERNMENT OF WEST BENGAL
School Education Department
Law Branch

No. 955-SE(Law)/SL/5S-1221/09 Dated: 27.07.2011

MEMORANDUM

By an order dated 30.03.2010, the Hon'ble High Court at Calcutta in WP No. 17501 (W) of 2009 in the matter of Smt. Shukla Das (Saha) vs. State of West Bengal & Ors. directed the Secretary, School Education Department, Government of West Bengal to revisit its policy decision as crystallized in the memorandum [no. 538-SE\(B\) dated 24.10.2007](#) as to consider and revisit the matter of the writ petitioner in the light of the observation made by the Hon'ble High Court at Calcutta. The observation of the said order of the Hon'ble High Court at Calcutta is set out below:-

The essence of the memorandum dated 24th October, 2007, in my opinion, is to remove financial hardship of those married working employees, as specified in the said memorandum, who had to set up separate living establishments in their respective work places due to distance, which would not allow them to live together under one roof. The question is, whether the object of bringing into force the memorandum dated 24th October, 2007, is frustrated, if there happens to be two employees who stayed apart for a distance of 250 kilometers or slightly less, since it is obviously not possible for a spouse to commute, in the present Indian travel condition and the available transport infrastructure, around 400 to 500 kilometers a day, just to stay under one roof.

2. After careful consideration of the above, the Governor has been pleased to decide that

(a) Full HRA as per rules will be admissible to only 1 (one) of the married working employees, if the husband and wife stay together irrespective of the distance. But the said amount of full HRA (one quantum) may be divided in such proportions as opted by the said employees.

(b) If the employee stays in the residence as provided by the employer, no amount of HRA shall be admissible. But his or her working spouse may be entitled to full HRA if he or she fulfills the conditions as stated in clause (c), (d) and (e) below.

(c) In case the distance is less than 150 Kms but not less than 50 Kms and the said distance is not commutable daily by availing general available transport, full HRA as per rule with the approval of this Department may be admissible to the both working spouses if they live separately.

(d) In case the distance is 50 Kms and above full HRA as per rule with the approval of this Department may be admissible to the both working spouses if they live separately.

(e) The benefit of the full admissible HRA to the both working spouses as per conditions as mentioned in clause (c) and (d) above may be allowed subject to the following conditions.

3. The concerned employee shall have to produce the following documents before the concerned Managing Committee of the School or the Sub-Inspector of Schools as the case may be. Only after

being satisfied the concerned Managing Committee of the School or the Sub-Inspector of Schools, as the case may be, shall forward the case with all document to the office of the concerned District Inspector of Schools.

(a) Full address of working stations of the both spouses mentioning the nearest Railway Station/ Bus Stand and the actual distance of the working place from the Railway Station/ Bus Stand.

(b) The original rent receipt/ residential house property tax receipt (xerox duly authenticated) on the both residences of the spouses.

(c) Original certificates from the concerned proddhan, in case of Gram Panchayet or from the concerned Councillor, in case of Municipality or Corporation/ Notified area for proof of the separate living because of the attending of the daily schools or office.

(d) The distance shall always be counted from the respective working stations of the working husband and wife.

(e) Drawal of full HRA by both spouses can be allowed only when posting of both of them is done with interest of public service and not on their own seeking.

4. The District Inspector of Schools upon receipt of the case with all relevant papers as mentioned above shall verify the matter and forward the same to the office of the Director of School Education, West Bengal if the distance is really non-commutable daily by availing the general transport system. A certificate to that effect shall be issued by the concerned District Inspector of Schools with full details and annexed to the prayer.

5. Then the Director of School Education, West Bengal with his views forward to the same to the School Education Department, Government of West Bengal for consideration of issuance of order in respect of full HRA. Drawal of such full HRA shall be effective from the first day for the next month after issue of this memorandum in respect of the incumbent.

6. The concerned Head of the institution shall be responsible to scrutinize the factual matters of the employee in respect the payment of HRA. If any charge occurs, the incumbent shall have to obtain further order in respect of HRA as per above procedure.

7. Each and every employee shall submit HRA declaration to the Head of the Institution with all supporting documents twice in the year in the month of January and in the month of July of the year.

8. This order issues with the concurrence of the Finance (Audit) Department. Government of West Bengal with their U.O. No. 2585 dated 14.07.2011.

9. This cancels G.O.No. 538-SE (B) dated 24.10.2007.

By order of the Governor,

Sd/- Secy. to the
Govt. of West Bengal