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

Date of decision: 24.07.2025

(9)+ W.P.(C) 2600/2006 & CM APPL. 14166/2008

E.S.I.C. & ORS.

.....Petitioners

Through: Mr.Sanjeev Sahay, Ms.Shagun
Sapra, Mr.Archit Rajput and
Mr.Karandeep Singh, Advs.

versus

JOINT ACTION COUNCIL SPECIALITY AND DOCTORS

.....Respondent

Through:

(10)+ W.P.(C) 1103/2008 & CM APPL. 2158/2008

UOI & ORS.

.....Petitioners

Through: Mr.Ruchir Mishra, Mr.Mukesh
Kumar Tiwari and Ms.Reba
Jena Mishra, Advs.

Mr.Mukul Singh, CGSC with
Ms.Ira Singh and Mr.Aryan
Dhaka, Advs.

versus

J.P.VERMA &ORS.

.....Respondents

Through:

**(11)+ W.P.(C) 9402/2009 & CM APPL. 7238/2009, CM APPL.
32421/2025**

UOI & ORS.

.....Petitioners

Through: Mr.Mukul Singh, CGSC with
Ms.Ira Singh and Mr.Aryan
Dhaka, Advs.

versus



SECRY. COORDINATION COMMITTEE OF CENTRAL
EXCISE ASSOCIATION & ANR.Respondents

Through: Ms.Jasvinder Kaur, Mr.Shivam
Yadav, Mr.Altamash Khan and
Mr.Shivalik Malik, Advs.

CORAM:
HON'BLE MR. JUSTICE NAVIN CHAWLA
HON'BLE MS. JUSTICE MADHU JAIN

NAVIN CHAWLA, J. (ORAL)

1. These petitions have been filed by the petitioners challenging the Order dated 16.09.2005 (W.P.(C) 2600/2006); Order dated 18.11.2005 (W.P.(C) 1103/2008), and; the Order dated 02.08.2006 (W.P.(C) 9402/2009) passed by the learned Central Administrative Tribunal, Principal Bench, New Delhi (hereinafter referred to as, 'Tribunal'), allowing the O.A.s filed by the respondents herein, holding that the respondents are entitled to the Transport Allowance at the rate of Rs.800/- per month, which was applicable to cities classified as Class 'A' in terms of the Office Memorandum dated 03.10.1997, and further restraining the petitioners from making any recovery of the alleged excess amount paid to the respondents as Transport Allowance.

2. As the three petitions raise a common question of law, they are being disposed of by this common Judgment.

3. The Government of India, by an O.M. dated 14.05.1993, issued a Special Dispensation Order, equating the city of Ghaziabad Municipal Area for purposes of House Rent Allowance (in short, 'HRA') and City Compensatory Allowance (in short, 'CCA') to



Delhi. This dispensation was continued by the Office Memorandum dated 18.11.2004.

4. In the *interregnum*, however, by an Office Memorandum dated 03.10.1997, the rates of Transport Allowance with effect from 01.08.1997 were announced as under:

“Rates of Transport Allowance w.e.f. 1.8.1997

Category/Pay Scale of the Employee	Rate of Transport Allowance Rs. per month	
	“A-1”/“A” Class City	Other Places
1. Rs. 8000 – 13500 or above	800	400
2. Rs. 8500 – 6900 or above but below the scale of Rs. 8000 – 13500	400	200
3. Below Rs. 6500 – 6900 and Casual Employees Granted Temporary Status.	100	75

”

5. In the said OM, while Delhi was placed in Category ‘A’ and ‘A-1’ Cities, in Annexure-1 thereto, for the purposes of CCA, Ghaziabad was placed in Category ‘B-2’, and for HRA, it was placed in Category ‘C’.

6. Thereafter, the applicability of these new classifications was clarified *vide* the Office Memorandum dated 22.02.2002, which specifically stated that the special dispensation allowed in case of HRA/CCA with respect to classification of Cities is not applicable to the Transport Allowance. We quote the same as under:

“...The special dispensation extended to HRA/CCA is not applicable to the transport allowance”

7. Subsequently, an Office Memorandum dated 10.08.2005 was issued, which directed the respondents to effectuate recoveries of the



excess amounts erroneously paid for Transport Allowance.

8. By Notices dated 07.01.2005 and others, the petitioners sought to make recoveries of the excess amount paid as Transport Allowance to the respondents by treating Ghaziabad to continue to be Class 'A' City for purposes of Transport Allowance due to the special dispensation that was applicable only to the HRA/CCA. These recovery notices were challenged by the respondents before the learned Tribunal.

9. The learned Tribunal, by the Impugned Orders, has allowed the O.A.s filed by the respondents, stating that the special dispensation for purposes of HRA/CCA shall entitle the respondents and shall extend the said benefit even for Transport Allowance.

10. The learned counsel for the petitioners submit that the above is in clear contradiction to the O.M. dated 03.10.1997 and specifically in terms of the clarification thereof provided in the OM dated 22.02.2002.

11. On the other hand, the learned counsel for the respondents submits that once the HRA/CCA benefit of Delhi is extended to Ghaziabad, there is no reason why Transport Allowance should also not be paid at the same rate as applicable to Delhi.

12. She submits that Ghaziabad being a city contiguous to Delhi, it is also reasonable that the same Transport Allowance should be extended to the respondents at the rates applicable to Delhi.

13. We have considered the submissions made by the learned counsels for the parties.

14. From a reading of the O.Ms dated 14.05.1993 and 18.11.2004,



it would be apparent that though Ghaziabad was not a Class 'A' City, for the purposes of HRA and CCA, as a special dispensation, it was extended the same rates as applicable to Delhi.

15. The Government, in its wisdom, however, by the O.M. dated 03.10.1997, as also clarified by the OM dated 22.02.2002, did not extend the said special dispensation to Ghaziabad as far as the Transport Allowance is concerned. In fact, the clarification provided in the OM dated 22.02.2002 which we have re-produced hereinabove, specifically states that the special dispensation for HRA/CCA shall not extend to the Transport Allowance. There was no challenge to the O.M. dated 03.10.1997 or the O.M. dated 22.02.2022 in the O.A.s filed by the respondents.

16. In any case, this is a matter of fiscal policy of the Government with which Courts refrain to interfere with.

17. The learned Tribunal has, therefore, clearly erred in extending the benefit of the special dispensation to the Transport Allowance payable for Ghaziabad as well to the respondents, which is in clear contradiction to the specific condition stipulated in the O.M. dated 03.10.1997 and as clarified in the OM dated 22.02.2002.

18. The Impugned Orders, therefore, cannot be sustained and are, accordingly, set aside.

19. At this stage, the learned counsel for the respondents submits that the respondents are at the verge of retirement and any recovery made at this stage would place them in pecuniary distress.

20. We would not like to comment on this as all the facts regarding the payments made are not before us. We, therefore, leave it open to



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the respondents to make representations in this regard to the petitioners. The petitioners shall consider such representation, if made, in accordance with law.

21. The petitions are disposed of in the above terms.

NAVIN CHAWLA, J

MADHU JAIN, J

JULY 24, 2025/sg/bs/ik