

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.458 OF 2020
(Arising out of SLP (C) No.13876 of 2019)

JAYANT CHAVHAN

.....APPELLANT(S)

VERSUS

NARMADA VALLEY DEVELOPMENT
AUTHORITY (NVDA) & ANR.

....RESPONDENT(S)

ORDER

Leave granted.

The appellant retired from the State Higher Judicial Service where he last held the post of Registrar General of the Madhya Pradesh High Court. On 03.04.2012, he was appointed as Member (Judicial) of the Grievance Redressal Authority (hereinafter referred to as “the Authority”) concerning the oustees of the Narmada Dam Project on contractual basis. The appointment was renewed from time to time and ultimately expired on 28.02.2015. Denial of House Rent Allowance contrary to the terms of appointment led him to institute a writ petition before the High Court claiming entitlement to House Rent Allowance at the rate of 20 per cent of his salary. The respondents

filed a counter affidavit acknowledging that his terms of appointment did contain a stipulation for payment of House Rent Allowance, but took the plea that subsequently on 01.09.2012, the finance department of the State Government issued a circular disentitling contractual appointees from House Rent Allowance. The circular was made effective retrospectively from 01.11.2011.

Relief having been denied by the Single Judge, the writ appeal petition was also dismissed leading to the present appeal.

We have heard counsel for the parties at length. The Authority was constituted under the orders of this Court. The issue of House Rent Allowance had to be regulated by the terms of appointment of the appellant. The respondents could not have arbitrarily and retrospectively changed the terms of the appointment to the prejudice of the appellant. That perhaps was sufficient to allow the appeal. But we also find that on 07.11.2019, during the pendency of the litigation, the respondents have issued an order granting House Rent Allowance to the appellant at 10 per cent of his salary on the contractual post. It is the case of the appellant that an Administrative Member, a retired IAS Officer, appointed on 30.05.2019 in the same Authority has been paid House Rent Allowance at the rate of 20 per cent. There is no denial of this fact by the Respondents. The distinction sought to be

drawn by the respondents that the appellant's appointment would be governed by the circular dated 01.09.2012 made effective from 01.11.2011 has to be stated to be rejected. The artificial distinction sought to be drawn by the respondents is completely unacceptable, is arbitrary and complete anathema, when it grants a higher House Rent Allowance to an Administrative Member of the Authority but puts a Judicial Member at a lower pedestal. It hardly needs emphasis that consideration of the grievances by the Authority is a quasi-judicial function, and a trained judicial mind obviously is better qualified and is considered a necessity for the constitution of the Authority. The discrimination in grant of House Rent Allowance between an Administrative and Judicial Member is held to be *per se* arbitrary, without any rationale and in teeth of Article 14 of the Constitution of India.

Resultantly, the appeal has to be allowed and the appellant is held entitled to House Rent Allowance at the same rate as given to the Administrative Member by order dated 30.05.2009. Any difference of arrears from the order dated 07.11.2019 must be paid to the appellant within a period of four weeks from the date of receipt and or production of this order failing which it will carry interest at the bank rate from the due dates of payment.

The appeal is allowed.

.....**J.**
(N.V. Ramana)

.....**J.**
(Navin Sinha)

.....**J.**
(V. Ramasubramanian)

New Delhi,
January 17, 2020

ITEM NO.38

COURT NO.2

SECTION IV-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

Petition for Special Leave to Appeal (C) No.13876/2019

(Arising out of impugned final judgment and order dated 27-03-2019 in WA No. 608/2017 passed by the High Court of M.P. Principal Seat at Jabalpur)

JAYANT CHAVHAN

Petitioner(s)

VERSUS

NARMADA VALLEY DEVELOPMENT AUTHORITY (NVDA) & ANR. Respondent(s)

Date : 17-01-2020 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE N.V. RAMANA
HON'BLE MR. JUSTICE NAVIN SINHA
HON'BLE MR. JUSTICE V. RAMASUBRAMANIAN

For Petitioner(s)

Mr. Gaurav Agrawal, AOR

For Respondent(s)

Mr. Harsh Parashar, AOR
Ms. Tanvi Bhatnagar, Adv.

UPON hearing the counsel the Court made the following
O R D E R

Leave granted.

The appeal is allowed in terms of the signed order.

(VISHAL ANAND)
COURT MASTER (SH)

(PARVEEN KUMARI PASRICHA)
BRANCH OFFICER

(Signed Order is placed on the file)