

**BEFORE THE UTTARAKHAND PUBLIC SERVICES TRIBUNAL  
BENCH AT NAINITAL**

Present: Hon'ble Mr. Rajendra Singh

-----Vice Chairman (J)

**CLAIM PETITION NO. 32/NB/SB/2021**

Diwan Singh Rautela, aged about 52 years, s/o Sri Umesh Singh Rautela, r/o Bithoriya no. 1, Dhar, P.O. Haripur Nayak, Haldwani, District Nainital.

..... **Petitioner**

**vs.**

1. State of Uttarakhand through Principal Secretary, Forest Department, Government of Uttarakhand, Dehradun.
2. The Principal Conservator of Forest (HOFF), 85, Rajpur Road, Government of Uttarakhand, Dehradun.
3. The Divisional Forest Officer, Khatima Range, Tarai Purvi Van Prabhag, District Nainital.

.....**Respondents**

Present: Sri Piyush Tiwari, Advocate, for the petitioner  
Sri Kishore Kumar, A.P.O. for the respondents

**JUDGMENT**

**DATED: MAY 22, 2024**

This claim petition has been filed for the following reliefs:

*"i) To issue an order or direction to respondents to grant the House Rent benefits to the petitioner at par with employee of other division of his department & State Government.*

*i(a) To quash order dated 20.04.2022 issued by respondent no. {(Annexure No. 13(b)} being illegal and arbitrary.*

*(i)(b) To quash order dated 24.04.2023 issued by the respondent no. 1 {Annexure no. 16} being illegal and arbitrary.*

*ii) To issue any other or further order or direction which this Hon'ble Tribunal may deem fit and proper in the circumstances of the case."*

2. Brief facts of the case, as per the claim petition, are that the petitioner was appointed on the post of Forest Guard in the erstwhile State of Uttar Pradesh on 31.08.1989. Consequent upon formation of State of Uttarakhand, his services were transferred to Uttarakhand Forest Department. He was promoted to the post of Forester after almost 22 years of satisfactory & diligent service and is presently posted at the Kishangarh Range under Tarai Purivi Van Prabhag, Nainital.

The House Rent Allowance (H.R.A.) is being sanctioned to the State Government servants on the basis of recommendations of Pay Commission. After formation of State of Uttarakhand rate of H.R.A. was first fixed vide Finance department Government Order dated 18 December 2001. In the said G.O the reference of previous G.O dated 11.06.1999 was given and held that as per said Government order, the city areas were categorized as 'A', 'B-1', 'B-2', 'C' and Unclassified. It is decided that Dehradun was taken from 'C' category to B-2 and accordingly Gopeshwar, Uttarakashi, Bageshwar, Champawat and Rudraprayag were declared as 'C' Category from unclassified. The area of Kashipur, Rudrapur, Haldwani-cum-Kathgodam, Almora, Bhawali, Mukteshwar, Nainital and Pithogragarh were also placed in 'C' Category. Para 7 of this Government Order also clarify that revised Pay H.R.A will be applicable to all permanent Government employee, who were not provided Government Accommodation and this allowance will applicable to both types of employees i.e. who are residing in rented house or who are residing in their own house.

3. The State Government on 05.06.2003 has further issued a G.O, wherein Urban area of Nainital and Pauri Garhwal, which were earlier placed in 'C' category, were further upgraded to B-2 Category. Consequent upon implementation of recommendation of 6th Pay commission by Pay Committee, State Government vide G.O dated 17.10.2008 had accepted the replacement scale. Accordingly, State Government vide G.O dated 13.02.2009 decided to revise HRA. Now

HRA is revised as per classification of City. For B-2 category 75% of Grade Pay was made admissible; for category 'C' 50% of Grade Pay was made admissible and for unclassified City 40% of Grade Pay was made applicable. Para 6 of this Government Order also clarify that revised Pay H.R.A will be applicable to all permanent Government employee who were not provided Government Accommodation and this allowance will be applicable to both type of employee i.e. who are residing in rented house or who are residing in their own house. Thereafter an amendment to G.O dated 13.02.2009 was made vide G.O dated 16.02.2009. Minor correction in Category "C" were made with respect to Grade Pay of Rs. 1400/- and Rs.4800/-

4. When some of the field staff raised the issue that in some of divisions of Forest Department, Deputy Range Officer, Forester and Forest Guard were not given H.R.A on the pretext that they are living in Forest outpost, then the Union of Forest Guard known as Uttarakhand Van Beat Adhikari Sangh has taken up the matter of H.R.A. with respondent no 2 vide letter dated 16.09.2018, categorically mentioning that Van Chowki (Forest Post) does not come under the definition of accommodation. In field area, these Forest Posts are located in remote area, where Forest Guard perform their normal Government work and these forest posts are meant for Conservation and Management of Forest and thus it does not come under the Residential accommodation. The said Forest post is merely an administrative office where there is no right of privacy. Dy. Rangers, Forester and Forest Guard are also entitled for equal treatment in terms of Article 14 of Constitution of India and are equally entitled for H.R.A. at par with other employee of the State Government. The reference of Fundamental Rules and Subsidiary rules were also given in this representation. It was also stated that these Forest Posts are used for the purpose of Government work, storage, keeping of record, Office work and used for welcome the special guest, who come to participate in awareness programs of States and to hear problems of Villagers. The provision regarding grant of H.R.A. as per Government

order for all permanent Government employees was also mentioned. Forest Official cannot keep their families in these outposts therefore, it cannot be considered as family accommodation. At last, the union requested to provide H.R.A. to those Forest Officials whose H.R.A. is deducted on the pretext that they are performing duties in Forest post.

5. On 29.08.2019, a meeting of Forest Guard Union was presided over by respondent no 1 and minutes thereof were circulated vide letter dated 16.10.2019. In this meeting the issue of grant of H.R.A. was inter-alia discussed and thereafter respondent no 1 had taken the decision that Head of Office will examine the issue and take decision at his own. Thus, respondent no 1 had thrust his responsibility on head of office, therefore left the matter on the wish of concerned Divisional Forest Officer. Hence, those DFOs, who acted in accordance with law had given the benefit of H.R.A. to Forest Guard, Forester and Dy. Range Officer under their jurisdiction and those who acted arbitrarily has denied the said benefit. In fact, respondent no 1 has pull his hand to take a uniform decision for all employee in accordance with law. Some of the Divisional Forest Officers, including the respondent no 3 who are not sanctioning H.R.A. to Forest Guard, Forester and Dy. Forest Range Officer continue to deny the H.R.A. on the ground that these categories of employee were residing in Forest Post. Forest Guard Union therefore again wrote a letter dated 29.10.2019 in response to letter dated 16.10.2019 vide which minutes of meeting dated 29.08.2019 were circulated. It was specifically requested that those field staff who were not being given the House Rent Allowance may please be given the same at the earliest.

6. Since no action was taken in response to letter dated 29.10.2019, Forest Guard Union again wrote a letter dated 18.01.2020 to respondent no 2 that as the matter is left on the discretion of Division Forest Officer, therefore, no action is taken by them, hence request was made to give necessary instructions in this regard. Again on 30.01.2020 in continuation of earlier

correspondence, the matter was taken up with respondent no. 2 that those field officials who are deployed in beat and sections were not paid HRA on the pretext that they are living in Forest Post whereas these forest posts do not come under the category of residence. On 29.07.2020 pursuant to a meeting of Minister for Forest and Environment, some proposals were sent for the welfare of Front-line staff of Forest Department. Respondent no. 2 informed that on 29.07.2020 (i.e. on the same day) they had forwarded a proposal for giving HRA to those forest employees who are residing in Forest post. On 29.07.2020 pursuant to a meeting of Ministry for Forest and Environment, a proposal was sent by the respondent no. 2 vide letter No. PO/92 dated 29.07.2020 duly recommending that Forest outpost may not be treated as Government Residence facility and thus in absence of separate Govt. residence facility, it will be appropriate to give House Rent Allowance. The above-mentioned proposal was rejected vide letter dated 20.04.2022 mentioning that the Finance Department has not given the concurrence, which was challenged by the petitioner by way of amendment.

7. On 22.11.2022, during course of hearing, this Hon'ble Tribunal observed that 'in the interest of justice, it is proper that the respondents are hereby directed to first decide/pass a suitable order on the representation of the petitioner within 02 months and compliance report shall be submitted accordingly'. Pursuant to above direction, the representation dated 27.08.2020 and 03.03.2020 was rejected vide order dated 24.04.2023 in the light of order dated 20.04.2022. Except the sole reason, no other reason has been accorded, thus the act of respondent is illegal, arbitrary and has taken as per their whims and fancies due to the reasons that while issuing letter dated 24.04.2023, no reasons has been accorded that under which circumstances the Forest field staff comprises of Forest Guard, Forester and Dy. Rangers are not entitled for grant of H.R.A, the grounds taken in representation dated 27.08.2022 and 03.03.2022 has neither been mentioned nor been rebutted, therefore, it is clear

violation of principal of natural justice. The act of respondent is also violative of Article 14, 21 & 23 as petitioner is legally entitled to receive H.R.A at par with state government employee. While taking the decision with respect to H.R.A., respondent no. 1 failed to appreciate the fact that Forest check post cannot be treated as dwelling house. It is a work place for Forest field staff where family cannot reside. It lacks basic amenities like school, play grounds and other good institution, to which the children of Forest field staff too are entitled to take admission. The act of respondent is clearly violative of fundamental rights as well as human rights of family of Forest Field staff. The above order has also been challenged in this petition by way of amendment. Hence the claim petition is liable to be allowed.

8. Counter Affidavit has been filed on behalf of the respondents by learned A.P.O. stating therein that department constructed the Forest outpost in the concerned division for field employees for their residential purpose and are allotted to them for their duty purposes in the field. Since the natural of duties of field employees are to conserve the forest in remote areas in forest beats thus during the field service every field employee have been allotted forest outpost having all the residential facilities and thus, forest outposts come under residential accommodation. Hence, in view of this fact, the field employees who have been allotted the forest outposts are not entitled for HRA.

9. Rejoinder affidavit against C.A./W.S. filed on behalf of the respondents, has been filed on behalf of the petitioner, reiterating the same averments as have been mentioned in the claim petition.

10. I have heard learned Counsel for the parties and perused the record.

11. Learned Counsel for the petitioner has argued that while issuing letter dated 24.04.2023, no reasons has been accorded that under which circumstances the Forest field staff comprises of Forest Guard, Forester and Dy. Rangers are not entitled for grant of H.R.A, the grounds taken in representation dated 27.08.2022 and

03.03.2022 has neither been mentioned nor been rebutted, therefore, it is clear violation of principal of natural justice. The act of respondent is also violative of Article 14, 21 & 23 as petitioner is legally entitled to receive H.R.A at par with state government employee. The respondent no. 1 has failed to appreciate the fact while taking decision with respect to H.R.A that Forest check post cannot be treated as dwelling house. It is a work place for Forest field staff where family cannot reside. It lacks basic amenities like school, play grounds and other good institution, to which the children of Forest field staff too are entitled to take admission. The act of respondent is clearly violative of fundamental rights as well as human rights of family of Forest Field staff. In Support of his argument, learned Counsel for the petitioner has relied upon the decisions dated 16.12.2022, rendered by Hon'ble Delhi High Court, W.P. (C) no. 11083/2019, Praveen Yadav & others vs. Union of India and others, in which it has been held that- **“applying the ratio of law settled in various decisions found that respondents cannot be permitted to take discriminatory view for personnel of different forces deployed in common areas for grant of HRA.”**

12. Learned Counsel for the petitioner has also relied upon the decision rendered by Hon'ble Supreme Court, in Civil Appeal No. 4967/ 2023, Union of India and others vs. Paramisivan M. on 08.02.2024, relevant paragraphs of which, are being reproduced herein below for convenience:

*“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.



13. Similar controversy has been decided by the Hon'ble High Court of Allahabad, in its decision dated 08.11.2013, passed in Writ-A No.-22759 of 2012, Narendra Pal Singh vs. State of U.P. & others. In this writ petition, the petitioners were constables and Head constables in provincial Armed Force posted in different Battalions. Initially, a Government Order was issued to the petitioners, that the "house rent allowance" would be admissible to petitioners if government's residential accommodation is not made available to them and they are residing in their own houses or rented accommodations. The sole question, for consideration in the writ petition was, "whether petitioners have rightly been denied H.R.A. on the ground that they are residing in Barracks in Battalions campus, which is treated to be an official accommodation/residential house allotted to petitioners, disentitling them for H.R.A. Relevant paragraphs of this judgment are being reproduced as under:

*8. All these petitioners admittedly have not been allotted any residential house and are staying in barracks. They have however been denied H.R.A. on the ground that since they are residing in barracks, which is an official residential accommodation, hence they are disentitled for H.R.A. It is this order dated 2nd March, 2012 passed by Commandant, 44th Battalion, P.A.C., Meerut, which is under challenge in the present writ petition.*

*9. It is evident from the own showing of respondents as also the Government Order dated 29.2.1980, which is annexure no. 6 to the writ petition, that there is a distinction between 'residential houses' and 'Barracks'. The members of police force including constables of Armed Police and Civil Police are required to stay in barracks for the own benefit of State, so that, a sizeable number of police force including PAC, is always available, in ready condition, whenever required for effective control of law and order. The police officials available in barracks can be deployed within a short time whenever required.*

*10. It is not disputed that in barracks, members of police force are not entitled to stay with their family members. They have to share common accommodation alongwith a large number of other colleagues. A barrack, as such, is not allotted to any individual police official. A barrack consists of a big room, in which facility to stay is provided to police officials, alongwith other police officials, where all the times they are in control of superior officers and incharge of the Barracks. Stay in barracks is regulated by department through-out. It is not an "official residential accommodation" which is contemplated in lieu of "house rent allowance" under various Government Orders. The term "government residence" has been used in various Government Orders in respect to H.R.A., which, in my view, would be referable to "residential accommodation" which is independently allotted to a member of police force, in which he can stay alongwith his family members and not 'barrack'. The residence in barracks cannot be equated with Government residential accommodation, which would disentitle H.R.A. The view otherwise taken by the respondents is patently illegal and goes against very concept of 'H.R.A.'*

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12. According to Collins English Dictionary published by Harper Collins, Barrack stands to mean:-

1. (Military) to house (people, esp soldiers) in barracks.

14. It thus appears that a place which jointly houses soldiers in garrison, is commonly known as barracks but that is not so in respect of "residential house" which is allotted to a Government servant, though normally owned by Government, but once allotted, its egress and ingress, and living conditions etc., are all arranged and controlled by the Government servant and his family members. There is no day to day routine interference of Government or the department, in respect of the manner, in which one is to live in such accommodation. However, in the barracks, entire stay is regulated.

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21. In the result, the writ petition is allowed. The impugned order is quashed. The State Government in particular and all the respondents in general are directed to provide appropriate H.R.A. to all the police officials including the petitioners, who are made to stay in 'barracks' and are not allotted appropriate 'residential accommodation' commensurating their status, rank and as per their entitlement. No costs."

14. In the instant case, according to the petitioner, some of the divisions of Forest Department of State of Uttarakhand, either forest accommodation is given or HRA is being granted to Forest Field Staff residing at Forest outpost, since it is not considered as a residential accommodation and in some of the divisions HRA is not being sanctioned to those who are residing at forest outpost. State Government vide G.O dated 13.02.2009 decided to revise HRA. Para 6 of this Government Order clarifies that revised Pay H.R.A will be applicable to all permanent Government employee who were not provided Government Accommodation and this allowance will be applicable to both type of employee i.e. who are residing in rented house or who are residing in their own house. As per Rule 22 of the Uttarakhand Forest Subordinate Service Rules, 2016 notified on 27.10.2016, the scale of pay admissible to the Field Staff in the service shall be same as may be determined by the Government from time to time. Meaning thereby that Field Staff i.e. Forest Guard, Forester and Dy. Range Officer are entitled to get all pay and allowances at par with State Govt. employees. The principle of equal pay for equal work has been considered, explained and applied in catena of decisions by

Hon'ble Court. The doctrine of equal pay for equal work was originally propounded as part of the Directive principles of the State Policy in Article 39(d) of the Constitution. Hon'ble Apex Court in various judgments has held that principle of equal pay for equal work is not a mere demagogic slogan but a constitutional goal, capable of being attained through constitutional remedies and held that this principle had to be read under Article 14 and 16 of the Constitution.

15. Learned A.P.O. on behalf of the respondents has argued that in response to Govt. of Uttarakhand letter dated 20.04.2022, whereby the proposal for providing HRA was rejected on the ground that the Finance Department has dissented with the proposal, a request has been made to the Govt. to place the proposal before the Hon'ble Cabinet. It has been further argued that the department constructed the Forest outpost in the concerned division for field employees for their residential purpose and are allotted to them for their duty purposes in the field. Since nature of duties of field employees are to conserve the forest in remote areas in forest beats thus during the field service every field employee has been allotted forest outpost having all the residential facilities and thus, forest outposts come under residential accommodation. It has further been argued that in view of the disagreement expressed by the Govt. after due consideration in the case of allowing House Rent Allowance to Forest Guard, Forester, Dy. Forest Range Officer's cadre under the Forest Department, the posts allotted to them are not considered as Govt. Housing facility, the said field employees are not payable HRA. Therefore, in compliance of the Tribunal's order dated 22.11.2022, the representation dated 08.12.2022 submitted by the petitioner was disposed of vide order dated 24.04.2023, in the light of the provisions laid down in G.O. No. 44(A)/GEN/X-1-2022-14(51)/2020, dated 20.04.2022. Hence, in view of this fact, the field employees who have been allotted the forest outposts are not entitled for HRA.

16. On the basis of above discussion, it is clear that when some of the field staff raised the issue that in some of divisions of Forest

Department, Deputy Range Officer, Forester and Forest Guard were not given H.R.A., on the pretext that they are living in Forest outpost then the Union of Forest Guard known as Uttarakhand Van Beat Adhikari Sangh has taken up the matter of H.R.A. with respondent no 2, categorically mentioning that Van Chowki (Forest Post) does not come under the definition of accommodation. These Forest Posts are used for the purpose of Government work, storage, keeping of record, Office work, used for welcome the special guest who came to participate in awareness programs of states and to hear problems of Villagers. The provision regarding grant of H.R.A. as per Government order for all permanent Government employee was also mentioned.

17. On 29.07.2020, pursuant to a meeting of Minister for Forest and Environment, some proposals were sent for the welfare of Front-line staff of Forest Department. Respondent no. 2 vide letter No. PO/92 dated 29.07.2020 addressed to Principal Secretary, Forest & Environment, Govt. of Uttarakhand, duly recommending that Forest outpost may not be treated as Government Residence facility. Para 1, 3 & 4 of the said letter read are under:

“उत्तराखण्ड वन विभाग के वन आरक्षी, बन दरोगा व उप वन क्षेत्राधिकारी संवर्ग के ऐसे कार्मिक हैं जिन्हें फील्ड (बीट/अनुभाग) में तैनाती के दौरान सामान्यतः चौकी में रह कर अपने कर्तव्यों का निर्वहन करना होता है। वन-चौकी ऐसे कार्मिकों का कार्यालय होता है। समय-समय पर स्थानीय लोग अपनी शिकायतें विभागीय एफ.आई.आर.(H-2) जैसे महत्वपूर्ण मामले इन चौकियों में दर्ज करवाते हैं। कई बार बन अपराधियों को भी लाकर इन चौकियों में पूछताछ की जाती है और कभी-कभी उन्हें वहाँ रखाना भी पड़ता है। यह भी उल्लेखनीय है कि इन कारणों से और यह देखते हुए कि सामान्यतः वन चौकियां प्रायः दूरस्थ वन क्षेत्रों के अन्दर होती हैं जहाँ शिक्षा/स्वास्थ्य सेवाओं जैसी मूलभूत आवश्यकताओं का अभाव रहता है, ऐसे वन कर्मी अपने परिवारों को चौकियों में न रख नगरीय क्षेत्रों में किराये के आवासों में रखते हैं। स्पष्ट है कि वन आरक्षी, वन दरोगा व उप वन क्षेत्राधिकारी संवर्ग के 'फील्ड' में तैनात कार्मिकों को उपलब्ध करायी गयी चौकियों को आवास का दर्जा नहीं दिया जा सकता है। यह इसलिए भी कहा जा सकता है क्योंकि चौकियों में रहने के फलस्वरूप सम्बन्धित कार्मिकों से कोई आवासीय किराया की कटौती वेतन से नहीं की जाती है।

चौकियों में बराबर निवास करना इसलिए आवश्यक हो जाता है क्योंकि वनों की सुरक्षा से संबंधित कार्यों की प्रकृति ऐसी है कि इन क्षेत्रीय कार्मिकों को मौके पर सदैव उपलब्ध रहना होता है।

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यहाँ पर यदि पुलिस विभाग से तुलना की जाये (वन विभाग में भी वनों की सुरक्षा के दृष्टिकोण से 'फील्ड' कार्मिकों का 'पुलिसिंग' का दायित्व होता है) तो ऐसे पुलिस कर्मी जिन्हें 'बैरिकों' या फिर पुलिस चौकियों में रखा गया हो उन्हें 'बैरिकों' / पुलिस चौकियों (जहाँ पृथक से आवास न हो) में रखे जाने की दशा में मकान किराया भत्ता नियमानुसार अनुमन्य किया जाता है।

उपरोक्त परिपेक्ष्य में उत्तराखण्ड वन विभाग के वन आरक्षी, वन दरोगा व उप वन क्षेत्राधिकारी संवर्ग के कार्मिकों को उनको आवंटित चौकियों को राजकीय आवासीय सुविधा न मानते हुए, पृथक से राजकीय आवास की सुविधा के अभाव में, नियमानुसार आवास किराया भत्ता अनुमन्य कराया जाना उचित होगा।”

18. The above-mentioned proposal was rejected vide letter no. 444(A)GEN/X-1-2022-14(51)/2020 dated 20.04.2022 mentioning that the Finance Department has not given the concurrence.

19. Again respondent no. 2 (Principal Conservator of Forest, Uttarakhand) vide letter no. 1/5932/2022 dated 02.09.2022 sent proposal to the Principal Secretary, Forest & Environment, Govt. of Uttarakhand, giving the reference of the letter dated 20.04.2022, for granting HRA to the field employee. The relevant paras 1 & 2 of this letter read as under:

“उक्त कम में अवगत कराना है कि वनों में स्थित वन चौकियों में फील्ड कार्मिक मूलभूत सुविधाओं से दूर रहकर राजकीय कार्यों का निर्वहन करते हैं वन चौकी मात्र एक पुलिस चौकी के समान राजकीय कार्यों के निर्वहन हेतु प्रयोग में लाई जाती है जहाँ पर कर्मचारियों द्वारा वनों में प्रयोग होने वाले उपकरण/सामग्री/हथियार रखे जाते हैं। वन आरक्षी हिंसक वन्य जीवों के बीच अपनी जान को दांव पर लगाकर घनघोर जंगलों, जहाँ पर कोई विशेष सुविधाएँ भी कर्मचारी को नहीं मिल पाती है। वन एवं वन्य जीवों की 24 घण्टे सेवा कर बचाने में अहम भूमिका निभाते हैं।

अतः वन विभाग के वन आरक्षी, वन दरोगा व उप वन क्षेत्राधिकारी संवर्ग के कार्मिकों को नियमानुसार आवास किराया भत्ता अनुमन्यता का आदेश निर्गत करने का कष्ट करें।

20. Thereafter, in compliance of the Tribunal's order dated 22.11.2022, the demand of the petitioner for granting the benefit of HRA was rejected vide order dated 24.04.2023, in the light of the provisions laid down in G.O. No. 44(A)/GEN/X-1-2022-14(51)/2020, dated 20.04.2022, saying that the field employees who have been allotted the forest outposts are not entitled for HRA.

21. In view of the above, the Court is of the view that in Uttarakhand Forest department at field level office and quarters are allotted separately to Division Forest Officer, Dy. Division Forest Officer, Forest Range Officers and Ministerial Staff, whereas, Deputy Range officer, Forester and Forest Guard were allotted Forest outpost for performing the Government duties, which does not come under the category of residential accommodation. Respondent no. 2, in his recommendation itself admitted that instead of considering the posts allotted to them as Govt. residential facility, in the absence of separate Govt. accommodation facility, HRA should be allowed as per rules. The recommendation of the Principal Conservator of Forests (respondent no. 2) sent to the Govt. in which, it is clearly mentioned that "यहाँ पर यदि पुलिस विभाग से तुलना की जाये (वन विभाग में भी वनों की सुरक्षा के दृष्टिकोण से 'फील्ड' कार्मिकों का 'पुलिसिंग' का दायित्व होता है) तो ऐसे पुलिस कर्मी जिन्हें 'बैरिकों' या फिर पुलिस चौकियों में रखा गया हो उन्हें 'बैरिकों' / पुलिस चौकियों (जहाँ पृथक से आवास न हो) में रखे जाने की दशा में मकान किराया भत्ता नियमानुसार अनुमन्य किया जाता है। उपरोक्त परिपेक्ष्य में उत्तराखण्ड वन विभाग के वन आरक्षी, वन दरोगा व उप वन क्षेत्राधिकारी संवर्ग के कार्मिकों को उनको आवंटित चौकियों को राजकीय आवासीय सुविधा न मानते हुए, पृथक से राजकीय आवास की सुविधा के अभाव में, नियमानुसार आवास किराया भत्ता अनुमन्य कराया जाना उचित होगा।" Forest outpost is defined under Section 2(iv)(b) of the Forest Conservation Act and under which, it is nowhere mentioned the use of it as residential accommodation purpose. At the field level Forest beat outposts are located at remote areas wherein Forest Guard, Forester and Dy. Range Officer perform their Govt. duties and these

outposts are specially constructed for the purpose of conservation of the forest. The Forest outpost is merely an administrative office where there is no right of privacy. Dy. Rangers, Forester and Forest Guard are also entitled for equal treatment in terms of Article 14 of Constitution of India and are equally entitled for H.R.A. at par with other employees of the State Government. The impugned order has been passed without giving any reasons that under which circumstances the Forest field staff comprises of Forest Guard, Forester and Dy. Rangers are not entitled for grant of H.R.A., therefore, it is clear violation of principal of natural justice. The act of respondent is also violative of Article 14 of the Constitution of India, as petitioner is legally entitled to receive H.R.A at par with state government employee. Hence, the claim petition is liable to be allowed and the impugned orders are liable to be set aside.

### **ORDER**

The claim petition is allowed. The impugned orders dated 20.04.2022 and 24.04.2023 are hereby set aside. Respondents are directed to grant House Rent Allowance benefit to the petitioner at par with employees of other division of his department and State Govt. No order as to costs.

**RAJENDRA SINGH)**  
VICE CHAIRMAN (J)

*DATE: MAY 22, 2024*  
*DEHRADUN*  
*KNP*