

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

% Judgment pronounced on: 31.01.2012

+ W.P.(C) 621/2012

RAVINDER KUMAR

..... Petitioner

versus

STATE OF HIMACHAL PRADESH

..... Respondent

**Advocates who appeared in this case:**

For the Petitioner : Mr Arvind Kumar

For Respondent : None.

**CORAM:**

**HON'BLE MR. JUSTICE BADAR DURREZ AHMED**

**HON'BLE MR. JUSTICE V.K.JAIN**

**BADAR DURREZ AHMED, J. (ORAL)**

1. This writ petition is directed against the order dated 26.05.2011 passed in OA No. 463/2011 by the Central Administrative Tribunal, Principal Bench, New Delhi. The plea of the petitioner before the Tribunal as also before us is that he is entitled to Rs 7,000- + DA each month as Transport Allowance for the period 01.09.2008 to 31.08.2009. The petitioner has placed reliance on the OM dated 29.08.2008, which has been issued by the Government of India, Ministry of Finance, Department of Expenditure and pertains to the grant of Transport Allowance to the Central Government employees. The said OM has been adopted by the State of Himachal Pradesh. The said OM, to the extent relevant, reads as under:-

“1(2)/2008-E-II(B)  
Government of India  
Ministry of Finance  
Department of Expenditure

New Delhi, the 29th August, 2008

**Office Memorandum**

**Subject: Grant of Transport Allowance to Central Government employees.**

The undersigned is directed to say that consequent upon the decisions taken by the Government on the recommendations of the Sixth Central Pay Commission, the President is pleased to decide that in modification of this Ministry's O.M.No.21(1)/97-EII(B) dated 3.10.1997, the Central Government employees shall be entitled to Transport Allowance at the following rates:-

Employees drawing grade pay of	Rate of Transport Allowance per month	-
-	In 13 cities* classified as A-1/A earlier	Other places
<b>Grade pay of Rs 5400 &amp; above</b>	Rs 3200 + DA thereon	<b>Rs 1600 + DA thereon</b>
(i) Grade pay of Rs.4200, Rs.4600 and Rs.4800 (ii) those drawing grade pay below Rs.4200 but drawing pay in the pay band equal to Rs.7440 & above.	Rs.1600 + DA thereon	Rs.800 + DA thereon
Grade pay below Rs.4200 and pay in the pay band below Rs.7440	Rs.600 + DA thereon	Rs.400 + DA thereon

# Hyderabad (UA), Delhi (UA), Bangalore (UA), Greater Mumbai (UA), Chennai (UA), Kolkata (UA), Ahmedabad (UA), Surat (UA), Nagpur (UA), Pune (UA), Jaipur (UA), Lucknow (UA) and Kanpur (UA).

2.        xxxx                xxxx                xxxx                xxxx

**3. Officers drawing, grade pay of Rs.10,000 & Rs.12,000 and those in the HAG + Scale who are**

**entitled to the use of official car in terms of O.M. No.20(5)-E-II(A)/93 dated 28.1.94 shall he given the option to avail themselves of the existing facility or to draw the Transport Allowance at the of Rs.7,000/- p.m. plus dearness allowance thereon.**

4.        xxxx                xxxx                xxxx                xxxx

5. The order shall take effect from September 1, 2008.

6.        xxxx                xxxx                xxxx                xxxx”  
(emphasis added)

2. A plain reading of the said OM makes it clear that employees drawing a Grade Pay of Rs 5,400/- and above in other than the 13 cities referred to in the second column shown in the OM would be entitled to Transport Allowance of Rs 1600/- + DA thereon. The petitioner was drawing a Grade Pay of Rs 8900/- which was above the Grade Pay of Rs 5,400/-, therefore, he became entitled to Transport Allowance of Rs 1600/- + DA thereon. Clause 3 of the said OM, however, creates another category of officials, i.e., the officers drawing Grade Pay of Rs 10,000/- and 12,000/- and those in the HAG + scale. A further condition, specified in clause 3, is that such officers must be entitled to the use of an official car in terms of OM dated 28.01.1994. If both the conditions, that is, with regard to Grade Pay and the entitlement of the official car are satisfied then such officers would be given the option to avail themselves of the existing facility or to draw the basic allowance at the rate of Rs 7000/- per month + dearness allowance thereon.

3. The plea of the petitioner is that he was entitled to the use of the official car and, therefore, he should be given Transport Allowance at the rate of Rs 7000/- + DA thereon.

This plea has been negated by the Tribunal and, in our view, correctly, by observing that clause 3 of the OM dated 29.08.2008 imposes twin conditions of grade pay being in excess of Rs 10,000/- or Rs 12,000/- or in the HAG + scale as well as the condition of entitlement to the use of the official car in terms of the OM dated 28.01.1994. Unless both the conditions are satisfied, a person would not be entitled to draw Transport Allowance at the rate of Rs 7000/- + DA thereon. Since the petitioner is admittedly drawing a Grade Pay of Rs 8900/-, which does not fall in the categories mentioned in class 3 of the OM dated 29.08.2008, the Tribunal came to the conclusion that the conditions for grant of Transport Allowance at the rate of Rs 7000/- per month + DA thereon had not been satisfied. Merely because the petitioner was entitled to the use of an official car would not be sufficient for him to be entitled for the said Transport Allowance of Rs 7000/- per month plus DA thereon.

We entirely agree with the interpretation of the Tribunal and with the conclusion arrived by them.

The writ petition is dismissed.

**BADAR DURREZ AHMED, J**

**V.K.JAIN, J**

**JANUARY 31, 2012**  
**BG**