

No. 21/8/2010-E.II (B)
Government of India
Ministry of Finance
Department of Expenditure

North Block, New Delhi
Dated: 7th March, 2014.

OFFICE MEMORANDUM

Subject:- **Payment of Transport Allowance to Central Government Employees posted in offices located at Faridabad, Ghaziabad Gurgaon, and Noida – Order of Hon'ble Central Administrative Tribunal (CAT), Principal Bench, New Delhi in O.A. No. 2080/2012 of ML Rustagi v/s Union of India & Others and 22 OAs (clubbed together) - Matter regarding.**

The undersigned is directed to refer to Order dated 4th October, 2013 of Central Administrative Tribunal (CAT), Principal Bench, New Delhi in O.A. No. 2080/2012 of ML Rustagi v/s Union of India & Others and 22 similar OAs (clubbed together) wherein Hon'ble CAT has directed the Ministry of Finance to re-examine the whole issue of payment of Transport Allowance to Central Government Employees posted in offices located at Faridabad, Ghaziabad, Gurgaon and Noida holistically taking into consideration its history starting from the issue of O.M. No. 21(1)/97-E-II(B) dated 3.10.1997, the various directions given by the Tribunal from time to time, the arguments advanced by the Applicants in all the OAs for grant of special dispensation to satellite towns with further direction that the decision taken is to be communicated to Ministries/Departments by means of a reasoned order.

2. Accordingly, as directed by Hon'ble CAT, the entire matter has been re-examined *ab-initio* in this Ministry. It is stated that Central Government Employees posted in offices located at Faridabad, Gurgaon, Ghaziabad and Noida are eligible for Transport Allowance at rates applicable to "Other Places" specified in Ministry of Finance O.M. No. 21(2)/2008-E.II (B) dated 29.08.2008 and NOT at 'A-1/A' class cities rates for the following reasons/grounds:-

(a) The 'special dispensation' to certain localities, including Faridabad, Ghaziabad, Gurgaon, and Noida, in the matter of grant of House Rent Allowance (HRA) and City Compensatory Allowance (CCA) were allowed, **as special cases**, by means of separate orders issued during 1974 to 1990. The 'special dispensation' allowed grant of HRA & CCA at Delhi rates to employees posted in offices located in Faridabad, Ghaziabad, Gurgaon, and Noida. However, the 'special dispensation' was neither based on classification of Faridabad, Ghaziabad, Gurgaon, or Noida as 'A-1/A' Class cities nor inclusion of any of these areas into Delhi (UA) for the purpose of HRA and CCA.

(b) The special dispensation in the matter of grant of HRA & CCA at rates applicable to 'A-1/A' Class cities to certain localities including Faridabad, Ghaziabad, Gurgaon, and Noida has been continued till date in respect of HRA and till 31.08.2008 in the respect of CCA, by making explicit provisions in the orders issued by the Ministry of Finance since 1993.

(c) The concept of Transport Allowance was introduced by the Fifth Central Pay Commission (5th CPC) to defray the cost of commuting between residence and office. The 5th CPC recommended grant of Transport Allowance @ Rs.800, Rs.400 and Rs.100 p.m. for 'A-1/A' class cities and @ Rs.400, Rs.200 and Rs.75 p.m. for remaining cities/towns to be classified as 'Other Places'. The 5th CPC had not specified/ recommended as to what should be the basis for classification of cities/towns as 'A-1/A' class cities or 'Other Places' for the purpose of Transport Allowance. On accepting the recommendation of 5th CPC, order for grant of Transport Allowance was issued vide Ministry of Finance O.M. No. 21(1)/97-E-II(B) dated 3.10.1997. Though it was decided that the cities classified as 'A-1' and 'A' for the purpose of CCA shall be the same for grant of Transport Allowance also, however, it was not decided to extend the 'special dispensation' granted to CCA, in respect of certain localities including Faridabad, Ghaziabad, Gurgaon, and Noida, for Transport Allowance.

(d) Clarification in this regard was issued at point No.9 of Ministry of Finance O.M. No. 21(1)/97-E-II(B) dated 22.02.2002 that the 'special dispensation' to some cities was extended in the case of HRA/CCA only, and that it was not applicable for Transport Allowance.

(e) The issue of grant of Transport Allowance at higher rates to employees posted in offices located in Faridabad, Ghaziabad, Gurgaon and Noida were raised in various OAs filed in CAT, in particular OA No. 1270/2005 which was disposed by Order dated 18.11.2005, OA No. 483/2005 along with OA No. 1292/2005 disposed by Order dated 16.09.2005 and OA No. 2263/2005 disposed by Order dated 03.01.2006. The Order of CAT dated 16.09.2005 in OA No. 483/2005 was challenged in the Delhi High Court and the matter was admitted as WP (C) No. 2600/2006 of ESIC & Others v/s Joint Action Council Speciality and Doctors wherein the Union of India is being represented through Secretary, Ministry of Labour and Employment. The Hon'ble High Court of Delhi is yet to decide the matter. Hence, the order of CAT allowing grant of Transport Allowance at 'A-1/A' class cities to employees posted in offices located at Faridabad, Ghaziabad, Gurgaon and Noida is, therefore, sub-judice.

(f) The 6th CPC while recommending CCA to be subsumed in Transport Allowance, did not recommend any special dispensation to be given to any locality in the matter of grant of Transport Allowance. Orders on implementation of the recommendations of the 6th CPC were issued vide Ministry of Finance O.M. No. 21(2)/2008-E.II (B) dated 29.08.2008 (effective from 01.09.2008) wherein higher rates of Transport Allowance were allowed to 'A-1/A' class cities and lower rates to 'Other Places'. The names of those 13 cities, to which higher rates of Transport Allowance is admissible, have been explicitly mentioned therein, which do not include Faridabad, Ghaziabad, Gurgaon or Noida. All cities/towns/places other than those 13 specified cities, comes under the classification of 'Other places' for the purpose of admissibility of Transport Allowance. Moreover, Delhi(UA) classified as 'A-1' class city for CCA purpose does not include the areas of Faridabad, Ghaziabad, Gurgaon and Noida.

