

**SUPREME COURT OF INDIA**

Hotel Tramboo Continental

Vs.

Home Department Civil Secretariat Govt.of Jammu & Kashmir

C.A.No.5393-5395 of 2009

(Kurain Joseph and R.Banumathi,JJ.,)

19.07.2017

**JUDGMENT**

**Kurian Joseph,J.,**

1. The simple dispute in these appeals is with regard to the rent payable to the appellant in consideration of the occupation of the rooms by the Government. The disputed period relates to 1997-2008. According to the learned counsel appearing for the appellant, even the rent agreement contemplated fixation of rent as per the prevailing government orders. It is also submitted that the appellant was entitled to the rent as paid to the other hotels during the relevant period. Be that as it may, it is not in dispute that with regard to the Police Department, rent has been paid @ Rs.200/- per day per , as per the rent fixed by Government Order dated 28<sup>th</sup> August, 1998. So far as rooms occupied by the Estate Officer, it is submitted that what is paid by the Police Department for occupation of rooms cannot be paid by the Estate Department. We are not able to understand the rationale behind this classification.

2. Having heard learned counsel on both sides, we find that essentially there seems to be a dispute of rent payable by different departments. Without expressing any opinion on the merits, we deem it to be a fit case to refer the matter to the Chief Secretary, State of Jammu and Kashmir, since he is the competent authority to take a decision on the issues pertaining to the different rates as applicable to different departments.

3. Accordingly, the civil appeals are disposed of with a direction to the Chief Secretary of the State of Jammu and Kashmir to take a decision as to the rent payable to the appellant for occupation of the rooms during the period 1997-2008, within four months.

4. The parties shall be afforded an opportunity of hearing before any decision is taken by the Chief Secretary. The fate of the interim order under which the appellant has been paid rent @ Rs.200/- as in the case of other departments, will depend on the final decision thus taken by the Chief Secretary.

5. We make it further clear that in case the Chief Secretary fixes more than Rs.200/- per day, the Government shall pay the same within three months from the date of the order passed by the Chief Secretary and on the contrary in case the rate fixed is less than Rs.200/-, the appellant shall refund the excess amount within a period of three months.