

Central Administrative Tribunal, Principal Bench

O.A. No. 884 of 1999

New Delhi, this the 30th day of November, 1999

Hon'ble Shri Kuldip Singh, Member (J)

Ram Singh S/o Shri Hargyan Singh
R/o B-52 Pandara Road,
New Delhi.

...Applicant

By Advocate Shri T.C. Aggarwal.

Versus

1. Secretary,
Ministry of Finance,
Department of Expenditure,
North Block,
Central Secretariat,
New Delhi-110 001.
2. Joint Secretary (E-Coord. Branch),
Ministry of Finance,
Department of Expenditure,
North Block,
Central Secretariat,
New Delhi-110 001.
3. Financial Adviser,
Ministry of Personnel, Public Grievances and
Pensions, North Block,
Central Secretariat,
New Delhi-110 001.
4. Controller of Accounts,
Ministry of Personnel, Public Grievances & Pensions,
3rd Floor, 'B' Wing, Lok Nayak Bhawan,
Khan Market,
New Delhi-110 003.
5. Sr. Accounts Officer (Admn.), Pr. Accounts Office,
Ministry of Personnel, Public Grievances and
Pensions, 3rd Floor, 'B' Wing,
Lok Nayak Bhawan, Khan Market,
New Delhi-110 003

..Respondents

By Advocate: Shri Rajeev Bansal.

ORDER

This is an application filed by Ram Singh, the applicant seeking direction to the respondents to reimburse him the benefit of residential telephone facility as per Office Memoranda No.F.7(3)-E(Coord)/87 dated 2.4.1987 and dated 9.8.1968.

2. The facts in brief are that the applicant is working as Deputy Controller of Accounts (hereinafter referred to as DCA) in the Principal Accounts Office of the Ministry of Personnel, Public Grievances and Pensions 3rd Floor, 'B' Wing, Lok Nayak Bhawan, Khan Market, New Delhi. According to the applicant, by virtue of the office, he is entitled to the reimbursement of the amount spent by him for maintaining the residential telephone. His main plea is that there is only one post of DCA on the strength in the office where he is working and 25% of the Group 'A' officers are entitled to the residential telephone, so the applicant by necessary implication, is entitled to the facility of residential telephone. He has also made certain representations which were probably rejected at the level of Ministry of Finance (Department of Expenditure).

3. Respondents contested the OA though they prayed that the application be dismissed but strangely enough the respondents had placed certain facts that the predecessor of the applicant was also being reimbursed the telephone expenditure. Respondents also pleaded that the case of the applicant was also recommended to the Ministry of Finance for a favourable view but the proposal was turned down by the Ministry of Finance. It seems that twice the Ministry of Personnel had recommended the case of the applicant to the Ministry of Finance and twice it had been turned down by the Ministry of Finance.

4. I have heard the learned counsel for the parties and have gone through the records.

5. At the outset I may mention that in this case the counter-affidavit has been signed by one Smt. Rupinder Nayar, Controller of Accounts, Ministry of Personnel, Public Grievances and Pensions, Lok Nayak Bhawan, 3rd Floor, New Delhi. According to the O.A. respondent Nos. 1 and 2 are Secretary and Joint Secretary respectively of the Ministry of Finance, North Block, New Delhi and respondent No. 3 is the Financial Adviser of the Ministry of Personnel, Public Grievances & Pensions, North Block, New Delhi and respondents Nos. 4 and 5 are Controller of Accounts and Senior Accounts Officer who have their office at Lok Nayak Bhawan, Khan Market, New Delhi. So from the entire counter-affidavit filed on record, it is not clear as to how Smt. Rupinder Nayar has derived the authority to file counter on behalf of respondent Nos. 1 and 2. In this case since the grievances of the applicant are directed against the Ministry of Finance, so the representation as of Ministry of Finance through a proper officer was required. According to the pleadings placed on record on behalf of the respondents, there is a inter-se conflict between the Ministry of Personnel, Public Grievances and Pensions and the Ministry of Finance, which is manifest from the reply itself that Ministry of Personnel had been recommending the case and the Ministry of Finance had been turning it down. So in such like ~~the~~ state of affairs, the counter-affidavit being filed by Smt. Rupinder Nayar on behalf of the respondents was not desirable as it is against the propriety.

6. However, presuming that Smt. Rupinder Nayar has the authority to represent the Ministry of Finance also, then in that event I may mention that she has not explained the reasons why the Ministry of Finance had been turning down the proposal

ku

of the Ministry of Personnel. The documents placed on record along with the counter-affidavit shows that the notes from the file of the Finance Ministry had been placed on record vide Annexure R-4 and Annexure R-2 whereby the Finance Ministry had twice conveyed their rejection on the proposal send by Ministry of Personnel for reimbursement of rent and call charges for the telephone installed at the residence of Ram Singh. So neither from these notes nor from the order conveyed to the applicant any specific reason has been assigned as to why he has been denied the benefit of the OMs as claimed by him.

7. However, Shri Rajeev Bansal, Counsel appearing for the respondents was fair enough to say that the Ministry of Finance had probably not allowed the applicant to be reimbursed the telephone expenses as he submitted that according to the OM relied upon by the applicant himself dated 2.4.1987 Group 'A' officers below the rank of Deputy Secretary, the provision of residential telephones will continue to be restricted to 25% of the number of such officers. The relevant portion of the OM dated 2.4.1987 reads as under:-

" Below the rank of Deputy Secretary not more than 25% of Group 'A' officers can be provided with residential telephones. In other words, officers of the level of Deputy Secretary and above fall in the entitled category for the purpose of facility of residential telephones, and the officers below this level belong to the non-entitled category.

XXX XXX XXX XXXX

For Group 'A' officers below the rank of Deputy Secretary, the provision of residential telephones will continue to be restricted to 25% of the number of such officers. (emphasis supplied)

~

8. Admittedly, the applicant does not fall within the category of Group 'A' officers, who are entitled to residential telephones. Thus, he is to be considered in the second category where officers below the rank of Deputy Secretary but coming within the category of 25% of Group 'A' Officers can be provided telephone. 12

9. According to the counsel for the respondents in the cadre in which the applicant is working, there is only one post and applicant cannot be said to be an officer coming within the category of 25% of the number of such officers and if the telephone to such an officer is provided, then it would mean that the telephone is being provided to the 100% of the officers, which is contrary to the spirit of the OM dated 2.4.1987.

10. To my mind also, the applicant is such an officer who cannot be said to be representing the 25% of the number of officers of his cadre since there is only one post of such cadre and technically, if he is provided telephone at the residence, this would mean providing telephone to the 100% officers from such cadre.

11. In view of the above, I find no merit in the OA and the same is dismissed. No order as to costs.


(Kuldip Singh)
Member (J)

Rakesh