

(10)

CAT/7/1

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL**  
**NEW DELHI**

O.A. No. 2485/96

199

T.A. No.

24-9-97

**DATE OF DECISION**

Sh. Tilak Ram

Petitioner

Shri B.L.Babbar

Advocate for the Petitioner(s)

Versus

Respondent

UDI & Ors

Advocate for the Respondent(s)

Sh. M. M. Sudan

**CORAM**

The Hon'ble Smt. Lakshmi Swaminathan, Member (J)

The Hon'ble

○

1. To be referred to the Reporter or not? *yes*

2. Whether it needs to be circulated to other Benches of the Tribunal? *X*

*Lakshmi Swaminathan*  
(Smt. Lakshmi Swaminathan)  
Member (J)

(11)

Central Administrative Tribunal  
Principal Bench

O.A. 2485/96

New Delhi this the 24<sup>th</sup> day of September, 1997

**Hon'ble Smt. Lakshmi Swaminathan, Member(J).**

Tilak Ram (Ex-Line Inspector),  
R/o House No. I/3986, Bhagwanpur Kheda,  
Loni Road, Shahdra,  
Delhi. ...Applicant.

By Advocate Shri B.L. Babbar.

Versus

1. Union of India through  
General Manager,  
Telecommunication Department,  
District Ghaziabad,  
Ghaziabad.
2. The Chief Accounts Officer,  
Telecom Accounts,  
A.O. (TA), Noida,  
Distt. Ghaziabad.
3. The Accounts Officer (Cash),  
O/O A.M. Telecom, Noida,  
Distt. Ghaziabad. ...Respondents.

By Advocate Shri M.M. Sudan.

O R D E R

**Hon'ble Smt. Lakshmi Swaminathan, Member(J).**

The applicant is aggrieved by the order dated 5.2.1996 passed by the respondents to recover an amount of Rs.8949/- towards electricity charges from the DCRG amount.

2. The brief facts of the case are that the applicant who, while working as Line Inspector in Noida area, was allotted Government accommodation, Qr. No. C-6/19, Sector 31, Noida in March, 1987. According to the applicant, there was no electricity and water connection in the said quarter. He submits that he had vacated the ~~same~~ quarter on 30.10.1993 and the same was reallocated to another employee of the

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respondents. The applicant contends that he did not receive any bill for electricity/water charges till 30.10.1993 or thereafter till his retirement on 31.10.1995. The respondents issued a demand notice for recovery of Rs.8949/- as outstanding balance of electricity charges in the Last Pay Certificate and had also deducted the said amount from the final dues of retirement Gratuity by letter dated 5.2.1996 which has been impugned in this case.

3. The main contention of Shri B.L. Babbar, learned counsel for the applicant, is that no electricity had been provided to the quarter allotted to the applicant during his entire period of occupation from March, 1987 to 30.10.1993. He has also submitted that the respondents had not given any bill for electricity charges to the applicant for the period of his occupation before his retirement and, therefore, the respondents cannot deduct the ~~said~~ amount of Rs.8949/- from his Gratuity after his retirement. The learned counsel has relied on a number of decisions of the Supreme Court and the Tribunal <sup>\*</sup>~~(list placed on record)~~ and contends that the respondents could not recover the electricity charges from the DCRG of the applicant. He has, therefore, prayed that the respondents may be directed to refund the amount of Rs.8949/- with interest as no electricity connection had been provided to Quarter No. C-6/19, Sector 31, Noida.

4. The respondents have filed their reply and I have also heard Shri M.M. Sudan, learned counsel for the respondents. The respondents have submitted that in the year 1988-89, Area Manager Telecom, Noida purchased several Quarters in Sector 31 from Noida Authority for the staff members of their

<sup>\*</sup>1. **Banwari Lal Dixit Vs. UOI&Ors.** (1992(19) ATC 853).  
2. **V.K. Mohan Surendernath Vs. CGM Telecom, Madras & Ors.** (1994(2) ATJ 438).  
3. **Raghbir Singh Verma Vs. UOI & Ors.** (1993(1)ATJ 17).  
4. **Wazir Chand Vs. UOI** (1991(8) SLR (CAT) 783).  
5. **D.V. Kapoor Vs. UOI** (AIR 1990 SC 1923).  
6. **S.S. Polley Vs. UOI** (1990(3) SLR (CAT) 232).

department. After the Flats were purchased, electric connections were taken from the U.P.S.E.B. in the name of SDO (Phone), Noida. According to them, because of non-availability of cable, electric meters could not be installed in these Flats. However, occupants of the Flats continued to draw electricity on 'Flat Rate' basis. Finally, the U.P.S.E.B. disconnected the electricity and at this stage all the Flat allottees approached the U.P.S.E.B. and got the bills corrected to charge at a flat rate of 100 units per month instead of 200 units per month, as originally printed in the bill. Since the allottees were not in a position to pay the arrears of electricity bills, they had approached the department to pay the electric bills, so that electricity connections could be restored and the amount may be deducted from their salary in easy instalments. They have submitted that Flat No. C-6/19, Sector 31 was in possession of the applicant from March, 1989 to 30.10.1993. It was later allotted to another employee Shri Chander Shekhar w.e.f. 21.12.1993. During the occupation of Shri Chander Shekhar, the U.P.S.E.B. had raised the bill of this Flat amounting to Rs.10994/-. The respondents have submitted that after taking into account the period of stay of the applicant and Shri Chander Shekhar in Quarter No. C-16/19, Sector 31, Noida, an amount of Rs.2045/- was to be recovered from Shri Shekhar and the balance amount of Rs.8949/- from the applicant. They have, therefore, recovered this amount from the DCRG payable to the applicant.

5. Shri M.M. Sudan, learned counsel for the respondents, has submitted that the applicant was using electricity in the Flat since December, 1989 without electricity meters and he was thus liable to make the payment to the U.P.S.E.B. when they preferred the bill. Whereas other occupants, who were allotted quarters and are still in service, have

agreed to make the payments through deductions from their salary, the applicant having retired is claiming that he has not consumed the electricity and so is not able to make the payment, which claim cannot be accepted. In this connection, Shri Sudan has referred to the letter (Annexure R-V) given by the applicant at the time when he vacated the Flat on 31.10.1993 returning two Fans and one Wash Basin which also shows that there was electricity and water connection in the Flat. The learned counsel has also referred to the annexures to reply in which notings have been made to the effect that all the allottees of the Quarters were utilising electricity by erecting their own cable from electric poles upto their quarters, with an understanding that they will pay on 'Flat Rate' basis as agreed by the U.P.S.E.B. They have, therefore, submitted that the contention of the applicant that he did not consume any electricity during his period of stay is baseless and no relief can be granted to the applicant on this ground. The respondents have also submitted that the deductions made from the DCRG are as per the departmental rules.

6. I have carefully considered the pleadings and the submissions made by the learned counsel for the respondents. The applicant has not disputed the fact that he has been in occupation of the quarter, in question, from March, 1987 till he vacated it on 31.10.1993. The contention of the learned counsel for the applicant that there was no electricity during this period when the applicant occupied the quarter is not tenable. From the materials on record, it is seen that other persons who were allotted quarters in the same sector have also received bills from the U.P.S.E.B. for electricity charges and they have requested the respondents to pay the arrears

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amount and adjust the same from payments due to them. It is also noted that after the applicant vacated the quarter, another employee Shri Chander Shekhar had been allotted the same quarter on 21.12.1993. The bill preferred by the U.P.S.E.B. is w.e.f. 19.12.1989 and covers the period of the occupation of the quarter by the applicant. The respondents have submitted the details of the calculations of dues from Shri C. Shekhar as well as the applicant for the period from 19.12.1989 to 28.2.1995 and have calculated the applicant's share as Rs.8949/-. The contention of the applicant that he had resided in the quarter, in question, for the period from March, 1987 to 31.10.1993, i.e. over  $5\frac{1}{2}$  years, without having any electricity or water connections, cannot be believed, particularly having regard to the fact that other persons similarly situated in the same Sector in Noida had got the electricity connections and agreed to pay the amounts to the U.P.S.E.B. They had, however, requested the respondents to make the payment of arrears of electricity charges to the U.P.S.E.B. and thereafter adjust the same in instalments from payments due to them. Therefore, the contention of the applicant that he is not liable to pay any electricity charges as no electric connection was provided to him is without any basis and this plea is rejected. The applicant is liable to pay the due amount of electricity charges as demanded by the respondents for the period of his occupation of the quarter C-6/19, Sector 31, Noida.

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7. The respondents have not denied that they have deducted the amount of electricity bill to be paid by the applicant from his DCRG on the ground that this is as per the departmental rules but no such rules have been placed on record. In the circumstances, the respondents cannot recover the outstanding dues of electricity charges from the applicant's DCRG amount and the same is liable to be refunded with interest in accordance with the rules, from the date of recovery to the date of refund.

8. In the result, the applicant shall pay the electricity charges of Rs.8949/- to the respondents and simultaneously this amount which has been deducted <sup>by the Respondents</sup> from the DCRG shall be refunded to the applicant with interest @ 12% per annum from the date of recovery till the date of refund.

O.A. disposed of as above. No order as to costs.

Lakshmi Swaminathan

(Smt. Lakshmi Swaminathan)  
Member(J)

'SRD'