

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH: NEW DELHI

O.A.NO.2423/93

(X)

New Delhi, this the 19th day of July, 1995

Hon'ble Shri J.P. Sharma, Member (J)  
Hon'ble Shri B.K. Singh, Member (A)

Shri Mahi Pal Singh,  
s/o Shri Jagdish Singh  
r/o 31-E, Central Govt. Housing Complex,  
Vasant Vihar, New Delhi.  
Junior Engineer (Civil),  
P.W.D./Circle-VI,  
Delhi Administration,  
M.S.O. Building, I.P. Estate,  
New Delhi.

... Applicant

By Advocate: Shri Sohan Lal

Vs.

Union of India,  
through

1. The Secretary,  
Ministry of Urban Development,  
Nirman Bhavan, New Delhi.
2. The Secretary,  
Ministry of Information and Broadcasting,  
Shastri Bhawan, New Delhi.
3. The Director General of Works,  
Central Public Works Deptt.,  
Nirman Bhawan, New Delhi.
4. The Director General,  
All India Radio,  
Civil Construction Wing,  
P.T.I. Building,  
New Delhi.

... Respondents

By Advocate: None

ORDER

Hon'ble Shri J.P. Sharma, Member (J)

The applicant has filed this application  
aggrieved by the order dated 24.7.92 whereby the  
Executive Engineer (Civil), Civil Construction Wing,

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All India Radio, Jabalpur (Nagpur) was asked by the office of the Superintending Engineer (C), Civil Construction Wing, A.I.R. Nagpur to recover the amount of HRA and licence fee from the salary of the petitioner alongwith 2 others S/Shri P.K. Jain and S.K. Richharya, Junior Engineers (C) since their occupation of AIR quarters. The applicant is said to have occupied surreptitiously Type 'D' quarter of AIR at Sagar while 2 others had occupied Type 'D' quarters at the same place. The relief claimed by the applicant in the amended original application is as follows:-

- (a) The letter No. SEC/NGP/93/90-S/2116 dated 24.7.92 may be declared illegal, void and without jurisdiction.
- (b) The respondents may be restrained to recover any HRA or licence fee or any other recovery for the alleged occupation of type-D quarter at Sagar w.e.f. July, 1990 to August 1992.
- (c) The respondents may be directed to pay the T.A. bill submitted by the applicant to E.E./Civil Const. Wing at Jabalpur for the period from March, 1992 and May, 1992 to August, 1992 without affecting any recovery from such T.A. bills.
- (d) The respondents may be directed to pay the hand-receipt of the applicant for reimbursement of the expenditure incurred in the interest of work submitted to E.E./C.C. Divn., AIR, Jabalpur without affecting any recovery on any ground whatsoever.

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- (e) The respondents may be directed to pay the pay and allowances of the applicant w.e.f. 1.7.92 to 3.9.92.
- (f) The respondents may be directed to pay the interest @ 24% per annum on all the claims of the applicant including T.A. bill, hand-receipt and salary from the date of due payment to the date of final payment.
- (g) Such other and further orders be passed as the Hon'ble Tribunal deem fit and proper in view of the facts and circumstances of the case.
- (h) Cost of the application be awarded to the applicant.

The learned counsel for the applicant Shri Sohan Lal has given a statement at the Bar that reliefs in sub para (a) and in sub para (b) of para 8 are pressed which are quoted above. The other reliefs C, D, E and F have been allowed by the administration itself. Regarding reliefs G and H it is for the Tribunal to consider the same. A notice was sent to the respondents but the respondents inspite of service of the notice have not put in appearance to contest the case.

The applicant has given certain facts but the relevant facts are only necessary for decision of the relief pressed in this O.A.



The applicant is a Junior Engineer, P.W.D. but he opted for deputation post of Assistant Engineer in AIR where he joined on 6th March, 1989. He was posted in Sub-Division of AIR, Construction Wing, under the administrative control of Executive Engineer (C), Civil Construction Wing, AIR, Jabalpur, M.P. He was relieved from the post by the S.E. (C) by the order dated 17.7.92 in pursuance of the order of Director General of All India Radio dated 21.5.92. It is said that the applicant handed over the charge on 22.7.92. However, after handing over the charge, the applicant attended the office at Nagpur regarding the clarification of the details of quarters and development work at Sagar. The applicant has also obtained No Demand Certificate from the Divisional office. The allegation of the applicant is that the Superintending Engineer was annoyed because the applicant was asked to prepare a hinderance register to give extension of time to the contractor without levy of compensation under clause 2 of the agreement which the applicant did not do. The applicant, therefore, joined S.E. (Coordination) on 4.9.92 by the order dated 14.9.92. However, the

applicant remained on leave upto 2nd March, 1993 and he regularly joined P.W.D./C-VI on regular duty on 3rd March, 1993 (F.N.). Though the applicant remained from 23.7.92 to 23.8.92 in AIR on duty at Nagpur and this period was not extended by the E.E./S.E. The applicant has also stated that he has replied to the letter dated 24.7.92 stating that he was not in occupation of type 'D' quarter at Sagar and he was residing from January, 1989 to August, 1992 at the house No. 122, Gopal Ganj, Civil Line-II, Sagar (M.P.) of Shri K.L. Mishra. This theory of occupation of type 'D' quarter by the applicant only to pressurise the applicant for illegal work for the benefit of the contractor which the applicant did not oblige and so S.E. Nagpur and E.E. Jabalpur got annoyed and stopped his payment and they cooked the story of the occupation of the said quarter without any allotment order. Thus, it is said that the order passed dated 24.7.92 for recovery of HRA for the period paid to the applicant be quashed.

We heard the applicant's counsel at length and perused the record. Since the respondents have not contested this application,

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it is only the documents filed by the applicant himself and the averments made in the O.A. coupled with the arguments advanced by Shri Sohan Lal, Advocate for the applicant, the O.A. is disposed of. The applicant has heavily relied on a reply sent to him on 13.5.93 by the office of S.E.(C), Nagpur and it is annexure P-8. It is in reply to the notice served by the petitioner. This reply goes to show in para 4 that the applicant was asked to intimate the date of his occupation of the Govt. quarter alongwith 2 others and he did not reply to the same till he vacated the quarter on 23.8.92. The petitioner did not intimate the competent authority in the matter of occupation of the quarter nor obtained allotment in his favour whereas it was entirely his responsibility to intimate the competent authority in the matter of his occupation of Govt. premises. He alongwith 2 others occupied the premises and availed the facility surreptitiously. This was seen by S.E.(C) Shri S.M. Nandgaonkar and accordingly he took action against the applicant and also against 2 others namely Shri P.K. Jain, J.E.(C) and Shri S.K. Richharia, J.E.(C) the latter<sup>two</sup> abided

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by the requirements and the recoveries are also effected from them. It is also stated in the reply that the applicant has given a certificate of Shri K.L.Mishra and obtained the same on 23.8.92 after <sup>he</sup> vacated the Govt. premises on 23.8.92. Shri K.L. Mishra was inquired in the matter and he stated that Shri M.P. Singh did not utilise the premises for any useful purposes after June, 1990. Shri P.K. Jain, J.E.(C) has confirmed the fact that the applicant has occupied the said premises. It was further intimated to the applicant through Chief Engineer (C) that he got electric connection from metered supply of sub-division office and that there was a substantial difference in the rated consumption of power during his occupation and after vacation on 23.8.92. Certain other queries were called from the applicant. Now coming to the main issue in this case, it is a fact that no allotment in the name of the applicant but the very nature of the certificate he has filed of Shri K.L. Mishra creates a doubt. As a Govt. servant he was expected to take monthly receipt from the landlord as he was allegedly paying Rs.650/- p.m. <sup>filed by him</sup> This certificate has no value

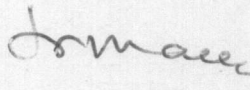
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neither it is a rent note nor it is a receipt since July, 1989 to August, 1992. In the incometax return filed by the applicant, he has not claimed any benefit though he was paying Rs. 650/- p.m. as house rent. The two others with whom the applicant was posted Shri P.K. Jain, JE (C) and Shri S.K. Richharia, JE (C) also similarly occupied the Govt. accomodation and relised HRA. Subsequently, that was ordered to be reimbursed <sup>from</sup> / their salary. Thus, the averment made by the applicant do not create confidence inasmuch as he was getting HRA of Rs. 220/- p.m. and his officiating pay was Rs. 2180/- as shown in the L.P.C. Thus, he was paying more than 10% of his salary towards rent, as the certificate filed by him shows that he had paid @ Rs. 650/- p.m. to Shri K.L. Mishra. He could easily get certain benefits in the incometax. In any case there is sufficient material on record to show that during the stay at Sagar, the applicant did not stay in any premises. In that event he must have retained the Govt. accommodation which is corroborated by his own colleague Shri P.K. Jain, who also shared the accommodation. Shri P.K. Jain and Shri S.K. Richharia, both J.E.s also occupied the premises and recovered HRA, so the order for recovery of the HRA from the applicant in the circumstances

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cannot be said to be arbitrary or unfair. The applicant has, therefore, no case. The application is, therefore, dismissed with no order as to costs.

  
(B.K. SINGH)  
MEMBER (A)

  
(J.P. SHARMA)  
MEMBER (J)

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