

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH

ALLAHABAD.

ORIGINAL APPLICATION NO. 48 OF ~~2000~~ 2001

ALLAHABAD THIS THE 28TH DAY OF MARCH 2008.

Hon'ble Mr. Justice A.K. Yog, Member-J

Ved Ram Saxena, son of Shri Ranehi Saxena, Resident of
Rajah Nagla, Bholepur, Fatehgarh, District Farukhabad.

.....Applicant

(By Advocate: Shri M.K. Upadhaya)

Versus.

1. Union of India through the Secretary, Department of Post & Telegraph, Ministry of Communication, Dak Bhawan, Sansad Marg, New Delhi.
2. Chief Post Master General, Lucknow.
3. Director General Postal Department, Ministry of Communication, Dak Bhawan, New Delhi.
4. Post Master General, U.P. Kanpur.
5. Officer Commanding 4 Crops, Postal Unit, C/o 99 A.P.O.
6. Senior Superintendent of Post Offices, Kanpur City.
7. Superintendent of Post Office, Fatehgarh District Farukhabad.

.....Respondents

(By Advocate: Shri D.K. Dwivedi/Shri R.K. Srivastava)

ORDER

Applicant, by means of the O.A. seeks to challenge the order dated 6.6.2000 (Annexure 1) by means of which respondent NO. 7 issued an order on receiving the information through letter received from Maj. 4 crops Postal Unit C/o 99 APO and thereby requiring the applicant to refund the amount of H.R.A received by him w.e.f. 5.10.1995 to 2.5.1998 @ Rs. 675/- per month.

Connected vide order
dated 4.7.08 passed
MA No 2614/2008

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2. The main defence of the applicant is that he had handed over the possession of residential quarter (allotted to him while in Army Service), wherefrom he was discharged/relieved in 1995. It is necessary to go into the detail of his being discharged/removed from Army Service. According to the applicant, he handed over possession vide letter dated 25.9.1995, (received in the office), a Photostat copy filed as Annexure A-1 and also as Annexure 10 to Compilation NO.2 of the O.A. This document find reference in para 4 (11) of the O.A. which has been replied vide para 18 of the counter affidavit (sworn by Shri R.C Verma). There is a scanty denial when it is to the effect: **'it is not admitted that the petitioner vacated the quarter and handed over the possession to the Army Authorities on 25.9.1995'**. This paragraph is been sworn on perusal of record. This denial cannot be relied in view of the fact that it is not clear as to how respondent NO. 7 (an Authority of Civil Postal Department) had access to the records of the Army Department. There is no mention that authenticity of the contents of the said letter (of handing over possession of quarter in question) was got verified by the answering respondents from the concerned Competent Authority.

3. From the pleadings on record, it is clear that when petitioner was removed from Army Service, he had approached Assam High Court by filing the writ petition wherein he got interim order. It appears that under said interim order, he continued to remain the possession of Army Quarter but later on having been dismissed from the service of Army, he vacated the quarter and joined the services of Civil Postal Department, at relevant time, he has been working at different places like Nawabganj, Kanpur and Fatehgarh.

Ans

4. According to the respondents, as per pleadings on record, when applicant did not hand over possession of the quarter (as alleged by him), a committee was constituted by the Authority for breaking the lock on 27.4.2000. There is no justification of any nature as to why the Authorities kept silent and mum and did not proceed to take action for requiring the possession of the quarter in 1995.

5. It is surprising that Authorities kept quiet for about 5 years, before they asked Civil Postal Department, for recovery of HRA and that too without giving show cause notice/opportunity to the applicant to defend him. In that view of the matter, the action to recover the House Rent Allowance against the applicant is arbitrary and illegal. The impugned order cannot be sustained and deserves to be set aside.

6. Consequently, the impugned order is hereby set aside with a direction to the concerned Authorities to refund the entire money recovered from the applicant with 9% p.a simple interest from the date amount is recovered till the date of actual payment. This exercise may be completed within 3 months from the date of receipt of copy of this order.

7. With the above directions, the O.A. is allowed.
No costs.

A.K. J.F.
Member-J

Manish/-