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RESERVED:

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
THIS THE 28 DAY OF JULY, 2006
Original Application No. 293 of 2005

CORAM

HON.MR.JUSTICE KHEM KARAN,V.C.

K.P. Dubey, S./o M.B.Dubey, aged about 49 years Ex.TGT(Maths) of kendriya Vidyalaya No. '2' NHPC Banbasa P.O.Chandani, distt. Champawat (Uttaranchal), presently dismissed from service and residing at Pratibhayan C 119 G.T.B Nagar, Kareli, Allahabad.

.. Applicant

(Applicant in person)

Versus

1. Kendriya Vidyalaya Sangathan through: The Joint Commissioner (Administration) 18, Institution Area, Saheed Jeet Singh Marg, New Delhi- 110016
2. The Principal Kendriya Vidyalaya, N.H.P.C Banbasa, P.O. Chandani, Distt.Champawat (Uttaranchal)

.. Respondents.

(By Adv: Shri N.P. Singh)

O R D E R

JUSTICE KHEM KARAN,V.C.

While working as T.G.T.(Maths) in a Vidyalay of Kendriya Vidyalay Sangathan (for short K.V.S) the applicant was transferred to K.V.S National Hydro Electric Power Corporation (for short N.H.P.C) Banbasa in Nainital (now in State of Uttaranchal) and he joined there on 16.11.1999. There is no dispute that he was allotted an accommodation on the same date and he occupied the same. It appears he was suspended w.e.f. 25.9.01 and thereafter dismissed from service on 28.7.03. This dismissal order is under challenge in another OA No. 206/04, pending at this Bench. After his dismissal, he discovered that he was entitled to get special compensatory allowance (remote locality allowance) @ Rs.1000/- a month from 16.11.1999 to 28.7.2003 which the

respondents had not paid to him. He therefore gave a representation dated 25.3.2004(Annexure 3) claiming an amount of Rs.40,000/- or so under that head of remote locality allowance and also stated that payment of that amount was necessary so as to enable him to vacate the residential quarter. It appears that the Principal of K.V.N.H.P.C Banbasa wrote a letter dated 12.4.2004 (Annexure 5) asking the applicant to first pay Rs.7285/- as house rent and to vacate the residential quarter without further delay. The applicant approached the Assistant manager but he too gave a letter dated 31.3.04 (Annexure 6) on the lines of the letter dated 12.4.04 of the Principal. Not satisfied with such demand of house rent, he approached the Chief Engineer in charge N.H.P.C, Banbasa to clear the position as regards the liability of the applicant to pay the house rent. According to him (see para 10 of OA) no such house rent was chargeable in view of the agreement reached in between N.H.P.C Banbasa and KVS. He states that NHPC had agreed to provide residential facility to the employees of KVS, at par with its own employees at Banbasa. He maintained that no such house rent was charged from employees of NHPC Banbasa at least upto March 2004. The applicant reiterated his stand in subsequent representations given to the Chief Engineer in charge of NHPC and to the Principal. He has filed this OA claiming the following reliefs:-

- a) to direct the respondent no.2 to pay the arrears of Special Compensatory (Remote Locality) Allowance amounting to Rs.40,472/- (as stated in Annexure A/1) with suitable interest within the time as fixed by this Hon'ble Tribunal so that the Quarter No.E/21 may be vacated by the applicant without any undue delay. Or;
to direct the respondent no.2 to pay the abovementioned amount, through his learned counsel, to the applicant in the open court of this Tribunal on any day of the proceeding in the case so that the applicant may, also, hand over the key of the abovementioned quarter to the learned counsel of



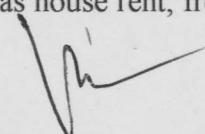
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respondent no.2 on the same day after receiving the abovementioned amount of his arrears.

- b) to direct the respondent no.2 for not deducting any amount from the applicant in the name of house rent recovery until the decision in his representation dated 15.4.2004 (Annexure A-7) is communicated to him, by the competent authority of NHPC Banbasa.
- c) to award suitable cost in favour of the applicant who is being harassed by respondent no.2, illegally and enemicaly.
- d) to pass any other suitable order/direction which may deem fit proper in the interest of the case and in the interest of justice.

2. In their reply and supplementary replies, the contesting respondents have not disputed the claim of the applicant for remote locality allowance but have asserted that as per the understanding reached in between KVS and NHPC, Banbasa, the house rent was chargeable on the residential quarters allotted to the employees of KVS. They have referred to letter dated 30.6.2003 written by Chief Personnel HR-III to general Manager Chamera power station Khairi, letter dated 31.1.04 written by Senior Manager (P&A) to the Principal K.V.No.4 NHPC campus Banbasa. Letter dated 23.3.04 written by Personnel officer of NHPC to the Principal K.V. Tanakapur power station Banbasa and also to the extracts of pay rolls indicating deductions of such house rent from certain employees of K.V.NHPC Banbasa. Some of these have been annexed as SCA-1, to third supplementary reply and some have been annexed to the copy of agreement filed by Shri N.P.Singh, in compliance of the directions of this Tribunal.

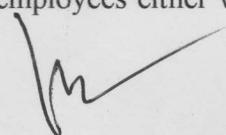
3. It appears that vide order dated 21.3.05, this Tribunal issued certain directions for amicable settlement of this dispute and in compliance of those directions, the respondents handed over a draft of Rs.30,772/- to the applicant after deducting an amount Rs.9700/-as house rent, from the total amount



payable to the applicant under the head of remote locality allowance and the applicant vacated the residential quarter on 3.7.05..

4. So the only controversy that survives now is as to whether the respondents were justified in deducting amount of Rs.9700/- as arrear of house rent, from the total amount payable to the applicant under the head of remote locality allowance.

5. The applicant has addressed the court in person and during the course of his submissions, he tried to say that in terms of the agreement reached in between NHPC Banbasa and KVS, house rent was not to be charged from the applicant as NHPC was not charging such rent from its own employees at Banbasa. The copy of agreement placed by Shri N.P.Singh for perusal of the Bench provides that cent percent residential accommodation will have to be provided on priority basis by the sponsoring authority (in this case NHPC) on the same terms and conditions as applicable to their own staff of corresponding status. Shri Dubey has also reiterated that it was for this reason that no such house rent was charged from him for the period commencing from 16.11.1999 to 28.7.2003. It is true that the respondents have not been able to file any proof that any house rent was charged from the applicant for the said period, when he was in service at Banbasa. In fact, nothing has come on record to show that such house rent was charged from any employee of K.V.S Banbasa prior to March 2004 but what Shri N.P. Singh submits is that it was decided in 2003 that such house rent will be payable by the occupants of the quarter from the date of allotment of the accommodation or from 29.9.1993 which ever was later in point of time. In this connection Shri Singh has read out letter dated 31.1.04 of Senior Manager NHPC to the Principal KVS NHPC campus Banbasa. According to this letter such house rent was chargeable from the staff of K.V.S for occupation of the accommodation since 29.9.1993 or the date of allotment which ever was later, at the rates disclosed in letter dated 23.3.04. It also appears to be a fact that K.V Banbasa started recovering house rent from its concerned employees either w.e.f. March 2004 or thereafter.



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6. The stand of the applicant that there was an agreement in between NHPC Banbasa and K.V.S not to charge rent from the concerned employees of K.V.S is not supported by any documentary evidence. The copy of the agreement placed by Shri N.P.Singh along with the letter dated 12/15.3.04 of the Assistant Commissioner, simply says that the sponsoring authority shall provide residential quarters to the employees of KVS at Banbasa on the terms and conditions on which the said quarters are being provided to the employees of NHPC. The date of this agreement is however not disclosed in the copy. It is difficult to infer from the fact that no house rent was realized from 1999 to July 2003 that there was an agreement not to realize such rent. The fact appears to be that it was in 2003-04 that the authorities concerned decided to recover house rent from 1993 or from the date of allotment which ever was later. They are now recovering as is evident from the papers annexed to supplementary replies.

7. Shri N.P.Singh has also stated that once this Tribunal has expressed its view in para 2 of its order dated 21.3.05 that the applicant cannot escape the liability of payment of rent of the house in his possession and once the applicant has virtually accepted the view by accepting the draft sent by the respondents, he cannot be allowed to say that house rent was not payable. Shri Dubey says that the view of the Tribunal in its order dated 21.3.05 on the point mentioned above does not amount to its final decision on the point. In the totality of circumstances as mentioned above, and in absence of any challenge to that order dated 21.3.05, we are inclined to take the view that the applicant accepted his liability to pay the rent as observed in order dated 21.3.05.

8. So from this point of view also, the case of the applicant as regards the recovery of the house rent from him, does not appear to be well-founded. We find that the respondents were fully justified in deducting the amount of Rs.9700/- as arrear of house rent from the total amount of Rs.40,472/- payable to the applicant as remote locality allowance. The respondents were generous enough in not charging higher rent from the applicant for retaining the quarter even after dismissal.

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8. The OA deserves to be dismissed and it is accordingly dismissed but with no order as to costs.

1. Jm " 2006
28.7.2006
VICE CHAIRMAN

Dated: July 28, 2006
Uv/