

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

ORIGINAL APPLICATION NO. 644 OF 1999
Cuttack this the 18th day of Oct. /2000

Kahnu Charan Das

...

Applicant(s)

-versus-

Union of India & Others ...

Respondent(s)

(FOR INSTRUCTIONS)

1. Whether it be referred to reporters or not ? No -
2. Whether it be circulated to all the Benches of the Central Administrative Tribunal or not ? No -

Somnath Som
(SOMNATH SOM)
VICE-CHAMAN
18.11.2000

G. Narasimham
(G. NARASIMHAM)
MEMBER (JUDICIAL)

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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

ORIGINAL APPLICATION NO. 644 OF 1999
Cuttack this the 18th day of October/2000

CORAM:

THE HON'BLE SHRI SOMNATH SOM, VICE-CHAIRMAN
AND
THE HON'BLE SHRI G.NARASIMHAM, MEMBER (JUDICIAL)

...

Sri Kahnu Charan Das, aged about 46 years,
Son of Pranakrushna Das, presently working
as Sub-Post Master, Debidol Sub-Post Office
At/PO: Debidol, Dist - Jagatsinghpur

Applicant

By the Advocates

Mr. T. Rath

-VERSUS-

1. Union of India represented through the
Chief Post Master General, Orissa Circle,
Bhubaneswar, At/PO: Bhubaneswar, Dist: Khurda
2. Director of Postal Services,
In the Office of the Chief Post Master General
Orissa Circle, Bhubaneswar, At/PO: Bhubaneswar,
Dist - Khurda
3. Superintendent of Post Offices, South Division,
Cuttack, At/PO/Town/District - Cuttack

Respondents

By the Advocates

Mr. A.K. Bose
Sr. Standing Counsel
(Central)

ORDER

MR. G. NARASIMHAM, MEMBER (JUDICIAL) : Applicant, Kahnu Charan Das on transfer joined as Sub-Postmaster, Debidol Sub Post Office on 10.5.1997. Sub-Post Office and the residential accommodation meant for the S.P.M. were running in a rented house since 1973. In this Application the applicant seeks issue of direction to the Respondent (Department), specifically, Superintendent of Post Offices, Cuttack South Division (Respondent No.3) to pay house rent to him as per the rates admissible with effect from 19.6.1997 to 20.4.1998; to refund the amounts already recovered from his salary towards electricity charge of the post quarters by declaring such recovery as illegal, and arbitrary and to restrain the Respondents from

further recovery of the same.

2. The case of the applicant is that since the date of his joining he has been noticing that the Post Office is not in a habitable condition. He therefore, represented to Superintendent of Post Offices (Respondent No.3) on 21.6.1997 praying for necessary repairs including the rectification in the electrical wirings. This representation was followed by reminders dated 1.7.1997 and 2.8.1997. There has been no separate meter connection to the quarters portion for domestic consumption and electricity is being provided to the quarters by way of extension from the Post Office. Since the Post Office is a Central Government Office the connection of the electricity has been categorised as Commercial consumer, charges for which is quite high than the domestic consumption. It is, therefore, necessary to provide separate connection to the post quarters for domestic use, which is chargeable from the salary of the occupant. However, no separate meter has been provided. On his joining outstanding electricity charge to the tune of Rs. 15,567.20 till 25.10.1997 was received. He requested the Superintendent of Post Offices for sanction of the aforesaid amount by his letter dated 3.12.1997. As his predecessor Shri Keshab Chandra Padhi had not vacated the post quarters on his joining the applicant could not occupy that quarters. The said Shri Padhi vacated the quarters on 10.11.1997 and in this was brought to the notice of Respondent No.3 by the applicant in letter dated 11.11.1997 with a request to make the post quarters habitable, but on 17.12.1997 he received an order from the Office of Respondent No.3 directing him to credit the electricity dues in respect of the post quarters from the date of his joining under Annexure-4. The applicant then protested

through represented dated 26.12.1997 explaining therein that he had ^{not} occupied the post quarters at any point of time and as such question of electricity consumption by him did not arise. Yet by letter dated 27.1.1998 Respondent No.3 again directed the applicant to pay the electricity dues from the date of his joining. Thereupon the applicant submitted representation dated 12.2.1998 to Respondent No.3, who directed the Assistant Superintendent of Post Offices in the Office of Superintendent of Post Offices for an enquiry in-to the matter. Yet no action was taken in spite of his direction. In letter dated 31.3.1998 Respondent No.3 requested the house owner of the building to undertake appropriate repair work, but the repair was done in a hap-hazard manner and this was brought to the notice of Respondent No.3 by the applicant in letter dated 20.4.1998. He occupied the post quarters on 20.4.1998 inspite of the same being not habitable. Since the electricity connection was in unsafe condition the applicant disconnected the electricity connection to the post quarters in order to avoid unnecessary charges and intimated this fact to the concerned Junior Engineer of Electricity Section in letter dated 27.4.1998 under Annexure-11. Yet the electricity authority or the Respondent No.3 had taken no action to disconnect the electricity extension supplied to the post quarters. Thereafter he received a query from Respondent No.3 as to whether the post quarters is having a separate meter. The applicant immediately replied denying the existence of any separate meter in the post quarters. Yet towards electricity charges Rs.536.00 for the month of March/99, Rs.666.00 for April/99, Rs.666.00 for May/99 and Rs.235.00 for June/99 have been recovered

from his salaries and therefrom at the rate of Rs.235.00, each month for indefinite period. Hence this Application.

3. The Department in their counter take the stand that the applicant is a permanent resident of Debidol locality, i.e., village Gajarajpur, which is 1 km. away from the Post Office. He has been alleging unsuitability of the building since his joining in order to force the respondents to dequartars the post quarters and in lieu to grant him house rent allowance. As per Rule-37 of P & T Manual, Vol-6(Part-I), applicant is required to reside in the post quarters so as to make himself able to discharge his duties properly. The land lady of the building had undertaken the repair work which was completed on 20.4.1998. During repairing the records of the Post Office were shifted to a nearby house and were brought back to the Post Office on completion of the repair work. As proper maintainence of the post quarters was not carried out the land lady Smt. Kanchanbala Padhi had complained to Respondent No.3 on 22.4.1999 (Annexure-R/3). Regarding recovery of electricity charges from the applicant, it is stated by the Department that as per the Chief Post Master General orders dated 12.1.1998 (Annexure-R/4), the minimum charge as applicable with respect to 1 K.W. line has been recovered from the applicant as there is no separate meter in the post quarters. The electricity charge for 1 K.W. supply for domestic consumption is Rs.222.00 per month and the same is being recovered from the applicant every month commencing from August/98. In fact before joining of the applicant none of his predecessors had alleged regarding unsuitability of the Post Office building or post quarters at any time. He being a permanent resident of nearby village at a

close distance from the Post Office has been residing in his own house violating Rule-37 of P & T Manual. He is, therefore, not entitled to ^{the} claim of house rent allowance. He had unauthorisedly disconnected the electricity supply to the post quarter on 1.5.1998. He even destroyed the boundary fencing during April/99 as per the complaint received from the land lady vide letter dated 22.4.1999 under Annexure-R/3.

4. Rejoinder filed by the applicant is more or less reiteration of facts as averred in the Original Application.

5. By order dated 4.2.2000, further recovery from the salary of the applicant towards electricity charge was stayed by this Bench till filing of counter and subsequently this order has been made absolute.

6. We have heard Shri T. Rath, the learned counsel for the applicant and Shri A.K. Bose, the learned Senior Standing Counsel appearing for the Respondents (Department.). Also perused the records.

7. The applicant has moved this Tribunal for relief under two prayers : one is for payment of house rent allowance from 19.6.1997 to 20.4.1998 and the other is for non recovery of the electricity charges in respect of the post quarters from his salary.

According to applicant he has occupied the quarters on 20.4.1998. His predecessor vacated the quarters on 10.11.1997. In the counter it has been averred that Shri Padhi (applicant's predecessor) vacated the quarters on the date of his relief, i.e. 20.6.1997. Yet on the basis of the representation of the applicant Respondent No. 3 directed the Assistant Superintendent of Post Offices of his office in letter dated 23.2.1998 (Annexure-8) to

enquire into the matter. Averment in the Original Application that no inquiry had taken place despite this instruction by Respondent No.3 has not been denied in the counter. If indeed the applicant's predecessor was under occupation of the post quarters till 10.11.1997, as averred in the Application, the applicant would be entitled to house rent allowance, admissible to him as per rules till 10.11.1997 from the date of his joining, i.e. 26.6.1997. Respondent No.3, Superintendent of Post Offices Cuttack South Division, Cuttack is, therefore, directed to enquire into the matter and in case of non-vacation of quarters by the applicant's predecessor pay the house rent allowance as per the rate admissible under the rules to the applicant till the vacation of quarters by his predecessor Shri Padhi.

However, the applicant would not be eligible for house rent allowance from the date of vacation of quarters by his predecessor. It is not denied in the rejoinder that the applicant's village is within 1 Km. away from the Post Office and he has been residing in his village from 20.6.1997 onwards. It is also not denied in the rejoinder that none of the predecessors of the applicant had ever made any complaint with regard to inhabitable conditions of the post quarters. This would indicate that the post quarters is not in that bad shape to be used for residential purpose. Hence non occupation of the post quarters by the applicant even after the vacation of his predecessor cannot be a ground for claiming house rent allowance, if indeed, his predecessor Shri Padhi vacated the quarters long prior to 20.4.1998, the date on which the applicant occupied the quarters.

8. Averment regarding receipt of outstanding electricity

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charge to the tune of Rs.15,567.20 has nothing to do with the recovery of electricity charge for domestic consumption in respect of the post quarters, as averred in the counter. It is specifically mentioned in the counter that even if the electricity supply is disconnected the applicant is bound to pay the minimum electricity charge for the post quarters as per the rates payable for domestic consumption, which comes to Rs.134.00 per month from August to November/98 and Rs.222.00 per month from December/98 onwards as instructed by the Chief Post Master General in letter dated 12.1.1998 under Annexure-R/4. Of course it is the case of the applicant that before disconnection of electricity supply to the post quarters he had intimated this fact to the concerned Junior Engineer of the Electricity Department for disconnection of the electricity supply. However, the Original Application is silent, his action in this respect ~~have~~ had the approval of the competent authority. Even the so called letter addressed to the Junior Engineer of the Electricity Department does not indicate that a copy of the same has been sent to Respondent No.3. The concerned Junior Engineer having not been impleaded as a party in this Application we cannot take notice of the applicant's plea that he had given due notice of this disconnection to the Electricity Department.

We, therefore, do not see any irregularity or ^{legal} infirmity in the decision of the Respondents to recover electricity dues from the salary of the applicant.

9. In the result, prayer in the Original Application to restrain the Department from deducting electricity dues from the applicant's salary is rejected. Interim order of stay on further recovery accordingly stands vacated. With regard to

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payment of house rent allowance we have already directed in Para - 7 (Page-5) to Respondent No.3 to cause an inquiry to ascertain the actual date of vacation of post quarters by Shri Keshab Chandra Padhi, predecessor of the applicant and in case Shri Padhi had not vacated the quarters on the date of his relief to pay house rent allowance as admissible under the rules to the applicant till the date of vacation of quarters by Shri Padhi. This exercise shall be completed within a period of 60(Sixty) days from the date of receipt of this order.

The Application is disposed of accordingly, but without any order as to costs.

Somnath Som
(SOMNATH SOM)
VICE-CHAMANMA
18.10.2002

18.10.2002
(G.NARASIMHAM)
MEMBER (JUDICIAL)