

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH : CUTTACK

ORIGINAL APPLICATION NO.45 OF 2000
Cuttack this the 17th day of April/2001

N.Sankar Reddy & Others ... Applicants

-Vers.-

Union of India & Others ... Respondents

(FOR INSTRUCTIONS)

1. Whether it be referred to reporters or not ?
2. Whether it be circulated to all the Benches of the Central Administrative Tribunal or not ?

Somnath Son
(SOMNATH SON)
VICE-CHAIRMAN

17.4.01
(G.NARASIMHAM)
MEMBER (JUDICIAL)

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH : CUTTACK

ORIGINAL APPLICATION NO. 45 OF 2000
Cuttack this the 17th day of April / 2001

CORAM:

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

1. S/Shri N.Sankar Reddy, aged 49 years, Son of Late N.Appalaswamy Reddy, Asst.Accounts Officer, Office of the D.D.A.(P), Cuttack-753005 and Circle Secretary, All India Postal Officers (Accounts) Association, Orissa Branch, Cuttack-753005
2. Narayana Prusty, aged 50 years, Son of Late Laxman Prusty
3. Ganeswar Tripathy, aged 50 years, Son of Late Chintamani Tripathy
4. Krushna Chandra Sahoo, aged 52 years, Son of Late Dhadi Sahoo
5. Purandar Mohanty, aged 46 years, Son of Shri Dharmudhar Mohanty
6. Satchidananda Sahoo, aged 51 years, Son of Late Kasinath Sahoo
7. Narayana Sahoo, aged 46 years, Son of Sribaschha Sahoo
8. Niranjan Nanda, aged 48 years, Son of Late Padmanab Nanda
9. Siva Charan Swain aged 49 years, Son of Late Nilamani Swain
10. Upendranath Nayak, aged 42 years, Son of Golakha Chandra Nayak
11. Kailash Chandra Nayak, aged 46 years, Son of Late Jatindra Nayak
12. Narendra Pradhan, aged 52 years, Son of Aira Pradhan

Applicants at Serial No. 2 to 12 are working at present as Asst.Accounts Officer in the Office of the Deputy Director of Accounts (P), Cuttack-753005

Applicants

By the Advocates

M/s. A.K. Mishra
B.B.Acharya
J.Sengupta
D.K.Panda
P.R.J.Dash
G.Sinha

-Vrs.-

1. Union of India represented by Secretary, Department of Posts, Ministry of Communications, Govt. of India, Dak Bhawan, Ashoka Road, New Delhi-110001
2. The Deputy Director General (Postal Accounts & Finance) Office of the Director General Posts, Dak Bhawan, Ashoka Road, New Delhi-110001

3. The Chief Post Master General, Orissa Circle, Bhubaneswar-751001, Dist - Khurda
4. The Deputy Director Accounts (Postal), Barabati Stadium, Cuttack-753005

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Respondents

By the Advocates

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

O R D E R

MR.G.NARASIMHAM, MEMBER (JUDICIAL): Applicants, who are Asst. Accounts Officers in the Office of the Deputy Director, of Accounts (Postal), Cuttack (Respondent No.4), in this Application pray for issue of direction to Respondents to provide residential service telephones at par with other postal officers of the country and other places in the Circle and for 575 free calls per month, the applicants have been permitted to pursue this Application jointly.

2. Their case is that in April/87, 80% of the Junior Accounts Officers of the Department of Posts were designated as Assistant Accounts Officers in the scale of Rs.2000-3200/- in Group-B Gazetted posts. As per the existing practice followed in the Department of Posts all Group-B Gazetted Officers of the Department, such as Accounts Officers, Sr. Accounts Officers, Superintendent of Post Offices, Superintendent of Railway Mail Service, Assistant Directors etc. are provided with residential service telephones. Consequent upon creation of posts of Asst. Accounts Officer, Group - B Gazetted cadre, All India Postal Officers (Accounts) Association requested the Bhubaneswar Directorate to consider the case of the Asst. Accounts Officers in providing them residential service telephones. Pursuant to this, the Department in June, 1989, decided to provide the facilities on the same line as approved by the Department for

other Group-B Gazetted Officers subject to administrative/
local legal convenience, vide Directorate letter dated 2.6.1989
under Annexure-1. The Department issued instructions to all
the Chief Post Master Generals vide Annexure-2 dated 26.9.1997
to decide the matter in their respective circles without
incurring extra expenditure. Again on 23.3.1999 vide Annexure-3
such instruction was given to all the C.P.M.Gs to decide early
the case of provision of residential service telephone
facility to Assistant Accounts Officer where such facilities
have not been extended. When the matter was taken up, by the
Chief Post Master General, Orissa Circle (Respondent No.3),
the latter instructed Respondent No.4 to intimate if it is
felt badly necessary to provide residential service telephone
to the Assistant Accounts Officer and that limited Assistant
Accounts Officers may be recommended in order of priority
for being considered by him. Respondent No.4, in turn,
recommended for provision of residential service telephones
to only five numbers of Assistant Accounts Officers, posted
in the Sections like I.F.A.Cell, Administration, Establishment,
General Provident Fund and Pension. Thus, Respondent No. 4
recommended such facilities only to five Asst. Accounts Officers,
out of the 17 available Asst. Accounts Officers in the Postal
Accounts Office at Cuttack.

According to applicants, the direction of Respondent
No.3 to Respondent No.4 to recommend cases of limited Asst.
Accounts Officers provision of residential telephone service
is against the spirit of instructions contained under Annexure-2.
Respondent No.4 arbitrarily by pick and choose method
recommended the names of five Asst. Accounts Officers, ignoring

the cases of seniorable, efficient and experienced
Asst. Accounts Officers.

3. The Department in their counter filed on 12.9.2000, while opposing the prayer made in the Original Application take the stand that under Annexure-A/2 dated 26.9.1997, the Department clarified that the local authorities can decide for providing residential service telephones to Accounts Officers/Asst. Accounts Officers, working in the Circle on reciprocal basis, without incurring extra expenditure and the telephones so provided would be in form of facility and not on entitlement. Residential telephone service is provided ~~wherever~~ whether the interest of public service demands and provision of this facility cannot be claimed as a matter of right and condition of service. Further in the Office Memorandum dated 10.2.1999 of the Ministry of Finance vide Annexure-R/1, there is direction to implement the additional austerity measures of steady expenditure on telephones and 25% cut on the residential telephones provided/^{to} non-entitled officers has to be effected immediately in each Department. Keeping in view the above instructions, the Chief Post Master General, Orissa Circle, being the appropriate local authority examined and considered the issue in question and observed that in the Department, residential telephone has to be provided to officers based on justification. In fact this matter was referred to the Postal Directorate seeking necessary instructions and the Directorate in their letter dated 9.5.2000 vide Annexure-3 clarified that the intention of the instructions contained in letter dated 26.9.1997 vide Annexure-A/2 was that the telephones should be provided

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to facilitate smooth discharge of duties by officers in public interest and residential telephones cannot be claimed by an officer as a matter of right or entitlement.

In the office of the Deputy Director Accounts (P) (Respondent No.4), five important Sections, like Administration, involving public interest Establishment, I.F.A. Pension and G.P.F./have been earmarked with detailed justification as work in these Sections are more important in nature and involves even emergent contact with higher officers, police, fire service, office security measures, pension, G.P.F. accounts holders etc. even beyond the office hours. Hence provision of residential telephone service to these five Asst. Accounts Officers has been made on the basis of proper justification.

4. Applicants have not filed any rejoinder to the counter of the Department filed on 12.9.2000. Though they filed rejoinder enclosing three typed documents and three xerox copies of documents, none of which has been attested to be true copies, as required under the Rules of Practice, which have been marked as Annexure-7, they cannot at all be taken into consideration.

5. We have heard Shri A.K.Mishra, the learned counsel for the applicants and Shri A.K.Bose, learned Senior Standing Counsel appearing for the Respondents (Department). Also perused the records.

6. The main point for determination is whether provision for residential telephone service to Asst. Accounts Officers is an incident of service, which in turn means whether the Asst. Accounts Officers of the Postal Department are entitled to the same facility. The applicants, during hearing could

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not bring to our notice any such provision either statutory or departmental instruction that an Assistant Accounts Officer of the Postal Department has the entitlement of residential telephone service by virtue of his appointment to that post. On the other hand Annexure-2 dated 26.9.1997 is clear that the Local Authority can decide the matter for providing residential telephone service to Accounts Officers/Asst. Accounts Officers, working in the Circle/Region on reciprocal basis, without incurring extra expenditure and telephones so provided would be in the form of facility and not an entitlement. The facility should not be at the cost of public exchequer, but on account of administrative necessity and inconvenience.

With reference to

Administrative need arises in the seat of greater interest importance of service. Thus in making provision of residential telephones it is the first criterion of the Department to see that no extra expenditure is incurred on reciprocal basis. Subsequently in circular dated 10.2.1999, issued by the Ministry of Finance, all the Departments were directed to ensure austerity measure by withdrawing S.T.D. facilities from the telephones provided to all officers below the rank of Joint Secretary and even by adopting 10% cut in the number of S.T.D. connections and also 25% cut on the residential telephones, provided to non-entitled officers. Thus it is clear that the instructions in the circular vide Annexure-2 for provision of residential telephones is not by way of entitlement, but by way of necessity, that too without incurring extra expenditure, to some of the officers and that too, if necessary, only to a few officers, to be decided by the Head of the Circle. This is further clarified under Annexure-A/2 dated 9.5.2000, a circular issued by the

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D.G. (Posts) explaining that the intention of instructions under Annexure-A/2 was that the telephone should be provided to facilitate smooth discharge of duties by the officers on public interest and residential telephones could not be claimed as a matter of right and the Local authority is competent to take decision in the matter as to whether the nature of jobs etc. justifies the requirement of residential telephones or not. Sitting as a Tribunal it is not desirable for us to see which particular Asst. Accounts Officer's seat has got importance or necessity for providing telephone connection to his residence. It is for the Department to decide the issue. There is nothing in the Original Application that the applicants had in fact represented to the higher departmental forum that the seats of Accounts Officers/Asst. Accounts Officers who have been provided with residential telephone facilities are not that important and/or that all 17 seats of Asst. Accounts Officers under Respondent No.4 are that important justifying residential telephone facilities, without flouting the norms as provided under Annexure-A/2, austerity measure, as indicated under Annexure-A/1 dated 10.2.1999.

7. It is true that at the closure of hearing, the learned counsel for the applicants filed four more documents, containing some informations. Since the Department had no opportunity to go through these papers, the same cannot but be ignored for consideration. Even then on perusal of these documents we do not come across any decision, information and/or instruction that all the Asst. Accounts Officers of the Postal Department are to be provided with residential

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telephone facilities.

For the reasons discussed above, we do not see any discrimination meted out to the applicants in not providing residential service telephones, which as we already held is not an entitlement and not even an incident of service condition.

In the result, we do not see any merit in this Application which is accordingly dismissed, but without any order as to costs.

Somnath Som
 (SOMNATH SOM)
 VICE-CHAIRMAN

17.4.01
 (G.NARASIMHAM)
 MEMBER (JUDICIAL)

B.K.SAHOO//