

O.A.NO.472 OF 2001

ORDER DATED 16.1.2003.

On 16.1.03

Copy 2 order
sent to all
nspsh. as
said copy 2
or. handed
over to both
side's counsel.

27/1/03

27.01.03

Applicant (a lady Postal Assistant working within the jurisdiction of the Chief Postmaster General, Samoaipur) applied for House Building Advance/Loan. Since there was delay in sanction of the said loan, she spent some of her savings and the savings money of her husband, and started constructing the house. In course of the said construction, she also borrowed money from her friends/relatives through her husband. During the period her application for HBA was being considered, data was made available to the Authorities to show that the construction work of the House has gone upto the plinth level. In the said premises, House Building Advance having been denied to the Applicant, she has filed the present O.A. U/s.19 of the A.T. Act, 1935 for redressal of her grievances.

In the counter it has been disclosed by the Department that since the Applicant has completed the construction of the House, she is not entitled to the said HBA loan. By referring

....

AFR

O.A.No.472/2001

Contd....Order dated 16.1.2003.

to Annexure-R/5, annexed to the counter of the Deptt.,
Learned Counsel for the Applicant has drawn my
attention to certain clarifications issued by the
Department; one of which reads asunder:-

- *7. Clarifications on grant of HBA for
payment of loans.- The Ministry of
Urban Development to whom the case
was referred have clarified as under:-

Point-1. xxx xxx xxx xxx

Point-2. whether HBA for repayments of
loan should be granted in respect of
construction of house which has not been
completed or in respect of all cases
where construction has been completed.

Clarification:- House Building
Advance is admissible for repayment
of loans irrespective of facts, whether
construction is complete or incomplete.

Point-3.-whether non-Government sources
includes private institutions, friends and
near relatives.

Clarification.-It is confirmed that
non-Government sources include private
institutions, relatives and friends for
the purpose of Ministry of Urban
development, O.M.No.1/17011/3/86-H-III
dated the 17th April, 1989 (No.6 above)

(D.O.T., Letter No.17-2/99-PAT, dated the
19th January, 1990).*

By referring to the aforesaid clarification/executive
instruction, the Advocate for the Applicant states/
submits that since the Applicant, during the pendency
of her application for HBA, has completed the house

AFR

7
6

O.A.No.472/2001

Contd...order dated 16.1.2003.

by taking the assistance of money from her friends and relatives, she is entitled to get relieved from those financial assistance by taking HBA.

Apparently, while refusing to grant HBA to the Applicant, the Authorities/Respondents have not taken note of the aforesaid clarifications/executive instructions of the Department and, therefore, while disposing of this Original Application, the Respondents are, hereby, directed to re-consider the matter (relating to the prayer of the Applicant for grant of HBA) by keeping in mind the clarifications/executive instructions, extracted above, and, in all fairness the Department should, at least give advances to the Applicant to clear up/ repay the Loan/financial assistance taken/received by the Applicant for completion of her house in question. This observation is made by keeping in mind the OM No.I/17011/3/86-H-III, dated the 17th April, 1989; in which it has been clarified that before granting such House Building Advance, the Head of the Department (i) should satisfy himself that the other loans were taken by the Government servant entirely for the purpose of construction/purchase of house/flat; and (ii) should ensure that the house building advance sanctioned is limited to the amount of loan still due to be

AFD

4
5

O.A.No.472/2001

Contd...Order dated 16.1.2003.

repaid by the Government servant.

(emphasis supplied).

with the aforesaid observations and directions,
this Original Application is allowed leaving the
parties to bear their own costs.

Manoranjan Mohanty
16.01.2003
(MANORANJAN MOHANTY)
MEMBER(JUDICIAL)

AFR

KNM/CM.

Lates
16/01/2003

Send Copies of this order (of 16.01.2003) to the
Respondent at the Cost of the Applicant;
whose Advocate undertakes to file
required papers within 10 days from now.

Manoranjan Mohanty
16.01.2003
M(J)