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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

Original Application No. 1435 of 2003
Cuttack, this the 6th day of May, 2005

Susil Kumar Rath Applicant

vs

Union of India & others Respondents

FOR INSTRUCTIONS

1. Whether it be referred to the reporters ? 74
2. Whether it be circulated to all the Benches of ~~the~~ 75 Central Administrative Tribunal ?


(B.N. SQM) 6/5-
VICE-CHAIRMAN

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CENTRAL ADMINISTRATIVE TRIBUNAL
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Original Application No. 1435 of 2003
Cuttack, this the 6th day of May, 2005

CORAM :

HON'BLE SHRI B.N.SOM, VICE-CHAIRMAN

.....

Shri Sushil Kumar Rath, aged about 56 years, S/o Late Raghunath Rath, At present working as Post-Master, Malkanagiri, Mukhya Dakaghar (M.D.G.), Malkanagiri, Dist : Malkanagiri.

..... Applicant

By the Advocates - M/s. T.Rath,
J.R.Dash.

VERSUS

1. Union of India, Represented through the Chief Postmaster General, Orissa Circle, Bhubaneswar, Dist : Khurda.
2. Postmaster General, Berhampur Region, Berhampur, At/P.O. Berhampur, Dist : Ganjam.
3. The Senior Superintendent of Post Offices, Koraput Division, Jeypur, (K), Dist : Koraput, PIN-764001.

..... Respondents

By the Advocate - Mr. U.B.Mehapatra (SSC). 2

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O R D E R

SHRI B.N.SOM, VICE-CHAIRMAN :

Shri Sushil Kumar Rath, Postmaster, Malkanagiri, Mukhya Dakghar (MDG, in short), Malkanagiri has filed this O.A. claiming payment of House Rent Allowance (HRA, in short) in lieu of providing post attached quarters with effect from 17.7.01 at the admissible rate and to direct the Respondents to refund the amount recovered from his pay towards electricity charges and also to pay the House Rent Allowance as per his entitlement as a Central Govt. employee.

2. The facts of the case in a nutshell are that the applicant as Postmaster, MDG is entitled to rent free quarters. However, on his posting to this assignment, with effect from 21.6.01 he found that the so called quarters attached to his post was inadequate for his purpose, firstly, because it was not according to the prescribed entitlement of quarters for his status/grade, and, secondly, it was not habitable being filled with office records, equipments and unserviceable furnitures. He, therefore, by his letters dated 21.6.01, 28.6.01 and 13.7.01 drew the attention of his controlling authority, i.e., Respondent No.3, to the problems faced by him and also requested the Respondent No.3 to allow him to stay outside the post quarters by hiring an accommodation. As he did not receive any response from Respondent No.3, he took a house on rent and put up

his family there with effect from 17.7.01 and informed the Respondent No.3 about this, vide his letter dated 24.7.01. It was only thereafter that by his letter dated 31.7.01, Respondent No.3 asked him to live in the post attached quarters by removing the office articles lying in that quarters. The applicant in reply, by his letter dated 4.8.01, explained in great detail as to how there was no place even to dump the articles to be removed from the so called quarters. He also drew the attention of Respondent No.3 to the observations made by the Postmaster General, Berhampur during his visit to the Postoffice on 29.6.2000 when he had directed Respondent No.3 to examine whether the office could be dequartered after redeploying the post of a watchman to the office. The grievance of the applicant is that he did not get any reply from Respondent No.3 in response to his letter, but there was deduction of Rs. 120/- from his pay on account of electricity charges. He was also not paid any HRA for staying outside in private accommodation.

3. Per contra, the Respondents have taken a stand that the applicant being provided with post attached quarters he was not entitled to any of the reliefs claimed by him. Further, that the previous Postmaster was staying in the attached quarters without any objection and that no alternative accommodation can be offered to him till construction of a departmental quarters at Malkanagiri for which the Respondent department has acquired a piece of land. They have, therefore, submitted that the proposal,

for dequaterization and exempting him from payment of minimum electricity charges are not justifiable, as the applicant is supposed to bear the cost of minimum charge for electricity as non-occupation of the post quarters was his own decision. They have also reiterated that the applicant did not carry out the order given to him to clear the post quarters by shifting the articles to other places in the Postoffice so that he could stay in the post quarters. They have submitted that in pursuance to the visiting remarks of PMG, Berhampur, the matter is still under consideration of the department and that the applicant should have awaited a formal decision to be taken in this regard.

4. I have heard the Ld. Counsel for the rival parties and have also perused the records placed before me.

5. The undisputed fact of the case is that the Postmaster General, Berhampur Region, on his visit to the Post office on 29.6.2000, had made the following remarks/ observations :

"This is an LSG office.....Accommodation seems to be less than the justified schedule of accommodation. There is no seating arrangement for the Postmen staff. There is no moving space in the office. The SSP may examine whether the office can be dequartered after redeploying the post of a watchman to the office."

From the visiting remarks it is clear that the plea taken by the applicant is true and that the remarks of the PMG are telling ones and I wonder how, in the face

of such remarks made by the head of the region, the Respondents can file a reply in the counter as they have done in this case. Infact, the averments in the counter are conflicting with the observations made by the head of the region. To resolve the apparent contradiction, I had called upon the Lt.Sr. Standing Counsel to obtain instructions from the Respondents whether the counter in reply was vetted by PMG, Berhampur also. In this regard, I would like to reproduce my order dated 9.3.05 here :

"Inspite of giving enough opportunities neither any counter was filed by PMG, Berhampur nor the letter dated 31.7.01 issued by the office of Respondent No.3 (Annexure-A/7) was put up for my perusal."

The above case makes a sad reading. It appears that the administration is running at cross purposes, what PMG of the Region wills, the SSP of the Division disposes that of. But surely, that can not be allowed to continue. The applicant by filing Annexure-A/7 and A/10 had given ample evidence of the state of accommodation in that Post office which is also clearly discernible from the remarks made by PMG, Berhampur, dated 29.6.2000 that when the office does not have proper working space, the Postmen staff do not have seating arrangement, one can not move freely/unhindered in the office and when the applicant has made the statement that there is only one point of ingress and egress to the office area and a part of which appears to have been identified as quarters, it is humanly impossible for any family to live in that area. Under no circumstances, it

can be called a quarters, attached or detached. It is surprising that the SSP had not bothered to make an on the spot visit of the Post office nor had he taken any action to implement the order of the Postmaster General. I would hope that the Postmaster General would be good enough to take proper stock of the situation and ~~to take~~ ^{to} task of the officials who remained in-dolent and flouted his orders to the detriment of the service. The applicant by filing rejoinder has created further holes into the arguments of the Respondents in denying him both the benefit of a proper quarters and the benefit of HRA in lieu thereof.

6. As the reports on the state of office accommodation submitted by the SPM, Malkangiri to the Respondent No.3 had remained unrefuted and as the PMG, himself as early as in 29.6.2000 had ordered providing proper living facilities for the Postmaster, I have no hesitation to hold that the decisions of the Respondent No.3 in not paying HRA to the applicant and deducting electricity charges at the rate of Rs. 120/- are unsustainable in the eye of law. I, accordingly, direct that Respondent No.3 should immediately stop deduction of electricity charges from the salary of the applicant and also refund whatever amount has been deducted from his pay so far, with interest at the rate of 9% per annum; the deduction of Rs. 120/- per month as electricity charges being highly unjudicious, because electricity charges are always payable on occupation basis. It is the contention of the Respondent No.3 that the applicant was not staying in the so called attached post quarters so how

could he think of deducting ~~deducting~~ electricity charges from his pay. Hence it is but logical to not only refund the amount of electricity charges recovered from ^{his pay} but also to stop any deduction forthwith. I also order that Respondent No.3 should pay HRA to the applicant as per entitlement from the month of July, 2001 when he took a house on rent for ^{his and} his family. Regarding the claim of the applicant for payment of HRA in lieu of rent free accommodation, I direct that the matter may be placed before the PMG, Berhampur Region to take a view in the matter after hearing both the parties as to whether the accommodation inside the Post office earmarked for the residence of the Postmaster could have been used for that purpose. Depending on his finding, the request of the applicant for HRA in lieu of rent free accommodation shall be decided.

7. O.A. is accordingly disposed of. No costs.

Arora 6/75
(B.N.SQM)
VICE-CHAIRMAN

KUMAR