

9

O.A. No. 864 of 2006

Order dated: 02.05.2008

CORAM:

Hon'ble Shri C.R.Mohapatra, Member (A)

Neither the applicant nor the Ld. Counsel for the applicant is present. However, Mr. S.B.Jena, Ld. A.S.C. appears for the Respondents.

It is seen from the record that even on earlier occasions i.e. on 20.06.2007, 09.08.2007, 24.09.2007, 31.10.2007, 05.12.2007, 16.01.2008, 13.2.2008, 5.3.2008, 26.3.2008 and on 23.4.2008^{and 25.4.08} neither the applicant nor the counsel for the applicant appeared to prosecute this case. A copy of the counter has been received by the Advocate for the applicant on 18.03.2008. It appears that the applicant has lost interest in pursuing this matter any further.

The relevant points stated in the O.A. are extracted below:-

“1. That the Disciplinary Proceeding was initiated against the applicant just one day before his retirement although he was not at all involved in the incident.

2. That, the proceedings after the retirement of the Applicant are supposed to be continued and concluded under the provisions of Rule 9 of the CCS(Pension) Rules 1972, which require that the order of penalty if any to be made is to be issued in the name of the President in consultation with the Union Public Service Commission.

3. That, there were numerous irregularities and illegalities in the inquiry, which were raised in the course of reply. Considering the same and malafide or lack of integrity not

having been proved against the applicant, Respondent No.2 dropped the disciplinary proceedings (annexed herewith as Annexure-A/1).

4. That, the retrial dues of the applicant was withheld without the order of the President of India violating Rule 9 of the CCS(Pension) Rules 1972 as amended by notification No. 7/14/90-P7Pw (F) dated 23.8.1991. Before conducting the inquiry, the applicant was not provided with the provisional pension as per Rules which lead to clear violation of Article 311(2) of the constitution of India.

5. That, the applicant had represented vide letter dated 25.5.2005 against the Letter No. CCIT/Admin (GI)/II-26(D)/05-06/2318 dated 4.5.2005 for vacating the quarters (annexed herewith as Annexure-A/3) requesting the authorities to allow him to retain the quarters till the conclusion of disciplinary proceedings by the Respondent No.2.

6. That, the applicant was served with another letter to vacate the quarter vide Letter No. CCIT/Admin (GI)/II-26(D)/05-06/7266 dated 28.6.2005 from Respondent No.5 rejecting the request of the applicant to retain the quarters and to vacate the said quarter immediately which shows that the Respondents have issued such letter to the applicant without having any authority to do so."

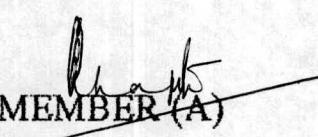
It has been clarified in the counter that the applicant was not entitled to occupy the Govt. accommodation beyond eight months as per the existing instructions and the rules on the subject. For this overstayal, the applicant had to face recovery of Rs. 76,272/- as damage rent and this amount was recovered from his retiral benefits. Hence the O.A. has no merit and it has to be dismissed.

11

The applicant has stated that the disciplinary proceedings which were initiated under Rule 9 of the CCS(Pension) Rules, 1972 were closed by the Disciplinary Authority on 4.10.2005. His contention is that he received the chargesheet one day before his retirement i.e. on 30.7.2004. It is also his contention that since proceedings were started under the Pension Rules, he should have been allowed to continue in the Govt. accommodation beyond the period of eight months. He has not cited any rule in support of his contention. Though he made the representations in this regard to higher authorities, the same were rejected being not admissible under the rules.

The Respondents, in their counter, have cited the specific rules on overstaying in residence after cancellation of allotment vide S.R.317-B-22 (Annexure-R/2). Since the request of the applicant to continue in Govt. accommodation beyond the admissible period is not covered under the rules, the Respondents have rightly rejected the request and the applicant is liable to pay the damage rent as per the existing rules/instructions.

In view of the above, the O.A. being devoid of merit is dismissed. No order as to costs.


MEMBER (A)

12

O.A. No. 864 of 2006

Order dated: 08.02.2010 (On M.A. 328/08)

CORAM:

Hon'ble Shri C.R.Mohapatra, Member (A)

Copy of order
dt. 8.2.2010
Issued to
Counsel for
both sides.

Heard Mr. B.Panda, Ld. Counsel for the applicant and Mr. S.B.Jena, Ld. Additional Standing Counsel for the Respondents.

S. S. 10.2.10
M.A. 328/08 filed for restoration of the O.A., which was dismissed on 02.05.2008 being devoid of any merit, is not maintainable in view of the Rule 15(2) of the C.A.T. (Procedure) Rules, 1987.

M.A. is accordingly disposed of.

However, Applicant is at liberty to take further action as per law, if so advised.

[Signature]
MEMBER (A)