

O.A. No.463 of 2008  
Paramananda Nanda ... Applicant  
Versus  
UOI & Ors. ... Respondents

Order dated 21st October, 2009.

C O R A M  
THE HON'BLE MR. C.R.MOHAPATRA, MEMBER (A)

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The grievance of the Applicant in the present Original Application relates to payment of HRA for the period from 26.05.2004 to 25.5.2005 while he was continuing as Postmaster, Bolangir, and R.S.N.D.S.O. Applicant is at present working as Business Executive of Bolangir Head Post Office. His stand is that from day one of his joining as Postmaster, Bolangir he has expressed his unwillingness to reside in the post attached quarters as the same was not commensurate with his status and position. According to him successive representations made by him for payment of HRA in lieu of the quarters in spite of the report of the competent authority in support of the stand that the quarters in question was not adequate for the stay of the Applicant did not find favourable consideration. Hence, he has approached this Tribunal in the present OA with prayer to quash the order dated 3.5.2006 (Anenxure-A/14) and 10.08.2007 (Annexure-A/16) and to direct the Respondents to pay the applicant HRA and conveyance Allowance for the period from 26.5.2004 to 25.5.2005.

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2. Applicant's continuance as Sub Postmaster Bolangir RS Town Sub Post Office from 26.5.2004 to 25.5.2005 has not been disputed by the Respondents in their counter filed in this case. However, they have opposed the prayer of the applicant for payment of HRA and conveyance allowance on the ground that as per Rules, when an official is transferred to a post office having post quarters he is not entitled to HRA and CA and accordingly, the petitioner was denied the benefit which he claimed in this OA. It is the contention of the Respondents that the Applicant did not occupy the Post attached quarters at Bolangir RS Town Sub Post Office on the plea of unsuitability of post quarters despite repeated instructions issued by the higher authority. The post office is functioning in a Central Government quarters provided by SE Railway. The predecessors of the Applicant were residing in the said quarters without any objection. The applicant was in habit of making false and frivolous allegations with a view to take the HRA by raising objection in one way or the other. It has been admitted by the Respondents in their counter that the post of SPM, Bolangir RS NDTSO is Time Scale post and Time Scale SPM (TSSPM) is entitled to Type II quarters. The existing building (Type II quarters) provided by the Railway Department cannot be accommodated as per the cadre of the officials drawing higher pay as and when posted. As such, the applicant of BCR cadre drawing higher pay cannot be provided a better type III quarters since it is a rented building of Railway Department meant for TS SPM. By stating to, the Respondents have prayed for dismissal

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of this OA. However, no rejoinder has been filed by the Applicant.

3. Learned Counsel appearing for both sides reiterated the stand taken in their respective pleadings. Having considered the rival submission of the parties perused the materials placed on record.

4. It reveals from record that in compliance of the order communicated in Memo dated 28.1.2005 of the Respondent No.4, Respondent No.5 verified the quarters and submitted the report in letter dated 01.7.2005 vide Annexure-A/7 stating as under:

“As per RO Letter under reference, I visited Balangir RS NDTSO on 16.02.2005 to inspect the condition of the PO building and SPM's quarter. I found that the said building is having only corridor, two medium size rooms, two small rooms, one courtyard and one latrine bath room. The corridor is being utilized as public space and the PO is functioning in one room and the other room is being utilized as Form/Store room of the post office. Leaving aside this portion two small rooms, one courtyard on the backside and one latrine/bathroom are available. The size of these rooms are 6'X8' and 5'X6'. This portion can not be utilized as quarter for the SPM.

As regards the occupation of the post quarter of Balangir RS SO by the previous SPMs it is to intimate that the corridor of the PO building which is now being utilized as public space was being utilized as the PO room by the previous SPMs and a temporary Asbestos structure existing in front of the PO meant for keeping the cycles, motor cycles etc. by the public was being utilized as the public counter by the previous SPMs. In fact there is no privacy of the said corridor portion. No door has been provided to it and hence everything of the office was visible to the members of the public. Hence, after joining of Shri Nanda the said corridor portion is being utilized as a public space from the security point of view. In fact it is a type II quarter and the same type of quarter has also been allotted to the Railway employees and they are exclusively utilizing the entire portion for residential purpose but in our case one room is utilized as office room and another room is utilized as store cum record

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room resulting inadequate accommodation for the SPM quarter."

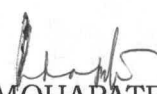
5. As it appears, the above stand has again been reiterated in the report submitted by Respondent No.5 under Annexure-A/10 dated 08.11.2005 and Annexure-A/12 dated 20.02.2006 while meeting the queries made by Respondent No.4. From the above, it is clear that the quarters in question were not according to the entitlement of the Applicant. None can be insisted to do something beyond the rules. Similarly, none can be compelled upon to stay in a quarters which is not in accordance with his entitlement. Government is under obligation to provide quarters to its employees and in case of non-availability of quarters according to the entitlement of an employee the employee concerned is entitled to HRA. On going through the report submitted by the Respondent No. 4 in my opinion there remains nothing further to hold that in not occupying the quarters in question the applicant had violated the relevant rules. In the circumstances, it is nothing but fair to hold that non-payment of the HRA and CA in lieu of the quarters cannot be justified. That the predecessors of the Applicant were occupying the quarters cannot be a ground to insist on the Applicant to reside in the quarters which was admittedly inadequate, in other words unsuitable for the applicant to stay. However, I refrain from quashing the order under Annexure-A/14 & A/16 in rejecting the prayer of the applicant for dequarterisation of the Post quarters; as quashing of the orders would tantamount to depriving the successor of

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applicant who might have been interested to take the quarters even with such deficiency.

6. In view of the discussions made above, as the Applicant did not occupy the quarters in question for the period he was holding the post, the Respondents are hereby directed to grant the Applicant HRA and on fulfilling the condition CA for the period from 26.05.2004 to 25.5.2005 within a period of 60 days from the date of receipt of this order.

7. In the result this OA stands disposed of with the observation and direction made above. No costs.

  
(C.R. MOHAPATRA)  
MEMBER (ADMN.)