

9

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

O.A.NO.642 OF 2010

Cuttack this the 27th day of September, 2012

CORAM:

THE HON'BLE MR.C.R.MOHAPATRA, MEMBER (ADMN.)

AND

THE HON'BLE MR. A.K.PATNAIK, MEMBER (JUDL.)

...

Rudranarayan Mohanty, aged 43 years, S/o.Sri Ambika Charan Mohanty, resident of Village -Patna, Post-Jharkata, Via-Bentakar, Dist-Cuttack - presently working as Sub Post Master of Rameswar Sub Post Office, At/PO-Rameswar, Dist-Cuttack, Orissa, PIN-754201

...Applicant

By the Advocates:M/s.P.K.Padhi, M.P.J.Ray, J.Mishra, K.Sharma

-Versus-

1. Union of India represented through it's Director General of Posts, Dak Bhawan, Sansad Marg, New Delhi-110001
2. Superintendent of Post Offices, Cuttack South Division, At-P.K.Parija Marg, Post-Cuttack GPO, Dist-Cuttack-753001

...Respondents

By the Advocates:Mr.S.B.Jena, ASC

...
O R D E R

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

The applicant, while working as Postal Assistant, Chhatia SO was transferred in the same capacity to Jagatsinghpur HO vide order dated 2.5.2008 (Annexure-A/2). Aggrieved with the said transfer order, he had moved this Tribunal in O.A.No.242/2008 and obtained stay order. At the relevant point of time, the post of Sub Post Master, Chhatia having remained vacant, the applicant was allowed to function as SPM, Chhatia. While the matter stood thus, Respondent No.2, without giving any notice to the applicant directed withholding of House Rent Allowance with effect from 1.5.2008 vide Annexure-A/3 dated 29.9.2009. Since the applicant had already been disbursed HRA till September, 2009, the HRA due to him from October, 2009 was not

R

drawn and disbursed in his favour. In the meantime, although the stay order issued by this Tribunal on the transfer order stood vacated and the O.A.No.242/2008 was dismissed, but the applicant, as no SPM had been posted to Chhatia SO, was not relieved in order to join at the transferred place at Jagatsinghpur H.O. However, the applicant was again transferred to Rameswar SO vide order dated 25.3.2010(Annexure-A/4). In the circumstances, HRA that had been stopped from October, 2009 till March, 2010 having not been released in his favour, applicant has moved this Tribunal in the present O.A. with prayer for quashing Annexure-A/3 with direction to Respondents to pay House Rent Allowance from October, 2009 to March, 2010 with interest.

2. Respondent-Department have filed their counter opposing the prayer of the applicant. The main thrust of the counter is that there being post quarters attached to Sub Post master, Chhatia SO, it was mandatory on the part of the applicant to occupy the said quarters failing which, no HRA is admissible. In the circumstances, they have submitted that the O.A. being devoid of merit is liable to be dismissed.

3. We have heard Shri P.K.Padhi, learned counsel for the applicant and Shri S.B.Jena, learned Addl.Standing Counsel appearing for the Respondents and perused the materials on record.

4. It is an admitted fact that the post quarters is attached to the Sub Post Master. It is also an admitted fact that the applicant while working as Postal Assistant, Chhatia SO was under orders of transfer to Jagatsinghpur HO vide order at Annexure-A/2 dated 2.5.2008. He could have been relieved but for

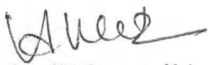
the interim stay order issued by this Tribunal in O.A.No.242/2008 filed by him. Be that as it may, even after the said O.A. was dismissed, no effective step appears to have been taken by the Respondent-Department to relieve the applicant from Chhatita SO to enable him to join at Jagatsinghpur HO as Postal Assistant. It is also borne out from the records that without complying with the principles of natural justice, like a bolt from the blue, Respondent No.2 stopped drawal of HRA in favour of the applicant from October, 2009 till March, 2010, when he was transferred and relieved to joint~~nt~~ another place, viz., Rameswar S.O. to work there as SPM. In addition to the above, it appears that the applicant had not occupied the said quarters under a genuine apprehension that within a short span of time he might be relieved to join the transferred place, viz., Jagatsinghpur S.O.

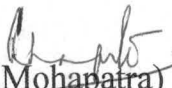
5. In view of the above, we would like to note that since the post quarters is attached to the post of SMP, Chhatia, applicant being a Postal Assistant cannot be compelled to reside in the said quarters. Even conceding for the sake of argument that the applicant having been allowed to discharge the duties of SPM, Chhatia ought to have occupied the said attached quarters but what strikes us is that his order of transfer was sub judice before this Tribunal. This fact cannot be brushed aside and thus, being in predicament, he could not be said to be at fault for non occupation of the post quarters. As a matter of fact subsequently he was transferred and relieved in order to joint at Rameswar SO in March, 2010. Apart from the above, it is a clear case where before withholding of HRA which adversely affected his interest, no notice had been

12
served on the applicant asking him to show cause in the matter. By an order dated 29.09.2009 the same has been stopped with retrospective effect.

6. For the reasons discussed above, we have no hesitation to quash the impugned Annexure-A/3 dated 29.9.2009 with direction to Respondent No.2 to release the withheld HRA from October, 2009 to March, 2010 in favour of the applicant. If necessary he may obtain the approval of the competent authority for the suspension of the accommodation for the relevant period. In any case the entire exercise should be completed within a period of ninety days from the date of receipt of this order. Ordered accordingly.

7. In the result, O.A. is allowed to the extent indicated above. No costs.


(A.K. Patnaik)
Member(Judicial)


(C.R. Mohapatra)
Member (Admn.)