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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

O.A No. 753 of 2010

Cuttack, this the 18th day of July, 2012

Akrura Charan Sethi Applicant
 -Versus-
 UOI & Ors Respondents

ORDER

Coram:

The Hon'ble Mr.C.R.Mohapatra, Member (Admn.)

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The facts, not in dispute, are that by the order of the Respondent No.4 (Superintendent of Post Offices, Cuttack North Division, Cuttack), the Applicant (Akrura Charan Sethi) while working as APM (Accounts) at Jajpur HO was posted to officiate as Postmaster Pattamundai MDG in which post he joined on 28.04.2005. The Applicant drew HRA till August, 2006. Hence by making representation he prayed for payment of the HRA on the ground that the post quarters is having two rooms which is inadequate for the stay of an employee of the grade of HSG-I. The quarters are not habitable to stay in absence of basic amenities. The Office Articles such as computer, computer accessories and steel almirahs and other office records have been kept in the said rooms and that the rooms are being used for conducting Rule 10, Rule 14, other CBI and departmental enquiries. Initially, the representations submitted by the Applicant were rejected. But later the de-quaterization of the post attached quarter of Pattamundai MDG was approved by the competent authority on 16.9.2009 w.e.f. 24.11.2009 and accordingly the

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applicant was paid HRA in lieu of the quarters. Meanwhile, the applicant retired from service on reaching the age of superannuation.

2. By placing reliance on the letters of the Inspector of Post Offices dated 28.4.2008 and on the letters dated 19.8.2009 and 16.9.2008 of the Superintendent of Post Offices, it has been alleged by the applicant that non payment of the HRA for the period from August, 2006 till 24.11.2009 cannot be justified. Thus, by filing the present OA, the Applicant seeks direction to the Respondents to pay HRA to the Applicant for the above period. He further prays direction to the Respondents to refund the Electricity and Water charges deducted from his salary for the above periods.

3. Respondents denied the stand taken by the Applicant on the ground that the Pattamundai MDG is functioning in a departmental building having provision of Postal quarters. The applicant was posted there in the capacity of Postmaster. Since there was provision of post quarters for the Postmaster, Pattamundai MDG, the applicant was not entitled to HRA and he was required to pay the electricity charges and other dues of the quarters.

4. Heard and perused the records. Admittedly, the applicant joined as Postmaster, Pattamundai MDG on 28.04.2005 on officiating basis. He was permanently posted as Postmaster, Pattamundai MDG w.e.f. 11.4.2007. Applicant was allowed to draw HRA from 28.04.2005 till August, 2006. When his HRA was stopped w.e.f. August, 2006 by stating the reason of not staying in the post attached

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quarter and trying to justify his entitlement of HRA in lieu thereof. However, his representation was rejected and communicated to him vide Annexure-A/5 dated 2nd December, 2009. Thereafter, as it appears on the basis of the consistent allegation that the post attached quarters is inhabitable the condition of the post attached quarters was enquired into and as it further appears on the basis of the report submitted by the Inspector of Post Offices at Annexure-A/6 dated 28.4.2008, the Superintendent of post offices visited the quarters who after being satisfied that the post attached quarters is/was not habitable for the residence of the postmaster vide letter under Annexure-A/8 dated 16.9.2009 recommended dequaterisation of the said quarters. Accordingly, the quarter was declared inhabitable w.e.f. 24.11.2009 and the applicant was paid his HRA w.e.f. 24.11.2009. We find that the applicant from the day one when his HRA was stopped has been agitating that as the post attached quarter is not habitable for his stay he was residing outside the quarters and thus, was entitled to HRA which was proved correct by the report submitted by the Inspector and Supdt. Of Post Offices at Annexure-A/6 & A/7 and based on such report the applicant was paid HRA w.e.f. 24.11.2009. HRA is paid to an employee in lieu of the quarters. Be it post attached or general pool quarter/accommodation that must be habitable for the stay of the incumbent/employee. This apart applicant was paid salary upto August, 2006 and as the quarter was proved to be not habitable and the applicant was paid HRA w.e.f.

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24.11.2009. But I do not find any justification for not paying the HRA despite not staying in the quarters ^{and} ~~so~~ further deduction of electric and water charges from the salary of the applicant. It is not the case of the Respondents that even though the quarters was habitable the applicant intentionally or deliberately did not stay in the quarters. The applicant cannot be made to suffer for the delay in causing physical verification of the condition of the quarters on the basis of the representation of the applicant. In view of the above, we find no justification on any of the grounds taken by the Respondents in support of denial of the HRA and recovering the Electricity and Water charges from the Applicant for the relevant period. Hence I quash the order of rejection under Annexure-A/5 and hold that the Applicant is entitled to the HRA for the period from August, 2006 to 23.11.2009 and obviously is entitled to get back the amount recovered towards Electricity and Water Charges for the same period. Resultantly, the Respondents are hereby directed to calculate and pay the applicant all his entitlements within a period of 90 days from the date of receipt of copy of this order.

5. This OA is accordingly disposed of. No costs.


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