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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

O.A. NO. 451 OF 2011
Cuttack this the 24th day of January, 2014

Chaturbhuj Gangai ... Applicant

Vs

Union of India & Ors. Respondents

FOR INSTRUCTIONS

1. Whether it be referred to reporters or not ? ✓
2. Whether it be referred to CAT, PB, New Delhi for being circulated to various Benches of the Tribunal or not ? ✗


(A.K.PATNAIK)
MEMBER(J)

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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

O.A. NO. 451 OF 2011

Cuttack this the 24th day of January, 2014

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HON'BLE SHRI A.K.PATNAIK, MEMBER(J)

Chaturbhuj Gangai
Aged about 47 years
S/o. of Gouranga Gangai
At present working as Sub Postmaster,
Kuruda Sub Post Office
Under the Balasore Postal Division,
Balasore.
Permanent Resident: At-Kalidaspur
Post-Haripur,
Via-Motiganj,
Dist-Balasore

...Applicant

By the Advocate(s) Mr.T.Rath

Vs

Union of India represented through

1. The CPMG, Orissa circle,
At/ Post- Bhubaneswar,
Dist-Khurda
2. Superintendent of Post Offices
Balasore Postal Division,
At /Post/ Dist-Balasore

...Respondents

By the Advocate(s)-Mr.S.Barik

ORDER

A.K.PATNAIK, MEMBER(J):

In this Original Application under Section 19 of the Administrative Tribunals Act, 1985, the applicant presently working as Sub Postmaster, Kuruda Sub Post Office under Balasore Postal Division has approached this Tribunal seeking the following relief.

- i) Direct the Respondents to grant HRA and LA at the admissible to the applicant for the period from 15.4.2008 till 1.6.2010.



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- ii) Declare that the realization of the entire rent of the office cum residential building from the salary of the applicant as bad and illegal.
 - iii) Direct the Respondents to refund the electricity charges realized from his salary during aforesaid period or in the alternative
 - iv) Direct the respondents to recalculate and re-assess the rent by proportionately dividing the quarters and office portion, and refund the excess amount realized from the applicant with 18 per cent interest.

2. Brief facts leading to filing this Original Application are that consequent upon his transfer, applicant joined as Sub Post Master, Khurda Sub Post Office on 15.4.2008 carrying the scale of Rs 5200-20,200/- with GP Rs. 2800/-. While working as such, he was promoted to BCR cadre carrying the pay scale of Rs. 9300-34,800/- with GP Rs. 4200/- w.e.f. 1.9.2008.

3. Grievance of the applicant is that after joining the Sub Post Office at Khurda, he found that the license free attached Post quarters meant for him is not habitable inasmuch as insufficient accommodation. He, therefore kept his family in his own house which is situated 7 kms. away from Kuruda Sub Post Office and at the same time brought this fact to the notice of the Superintendent of Post Offices, Balasore Division vide his representation dated 21.7.2008. According to applicant, the total area of the rented building used for office and rent-free quarters of the Sub Post Master works out to 652 sq.ft. having the present house rent of Rs. 1600/- per month, whereas his salary in the month of April 2008 being Rs. 14,330/- and Rs. 16,610/- w.e.f 1.9.2008, he was entitled to get house rent @ 10 per cent of the pay drawn plus L.A @ 144 for the period from 1.4.2008 till 31.8.2008 and thereafter HRA @ 10 percent of the pay drawn plus LA @ 217 from 1.9.2008, which comes to Rs. 1577/- for the period



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from 1.4.2008 till 31.8.2008 and Rs 1878/- w.e.f 1.9.2008. The applicant having received two increments thereafter, his pay raised to Rs.17,110/- w.e.f. 1.7.2009 and Rs 17,630 /- from 1.7.2010 thus making him entitled to HRA Rs.1928/- and Rs 1980/- w.e.f. 1.7.2009 and 1.7.2010, respectively. The above calculation, according to applicant, would show that the amount which was being deducted from his salary towards HRA and LA was more than what was being paid by the Department towards the rent of the entire premises, i.e., office building and the SPM's residence.

3. It has been submitted by the applicant that the entire premises taken on rent by the Department consists of three rooms, i.e., the room number one and two are used as office rooms and the third one is supposed to be used as bedroom of the SPM. Besides the above three rooms, one more small room available is purportedly meant to be used as the kitchen. It has been further submitted by the applicant that, in view of Government of India, Ministry of Communications and I.T., Department of Post's Notification No. 2-2/2009 – BLDG dated 20.5.2009, as circulated vide Respondent No 1's Office Letter No. Bldg/1-3/RLG/corr-CH-I dated 26 May 2009, his Grade Pay being Rs. 4200/-, he is entitled to Type- III quarters.

4. It is the case of the applicant that Director General of Posts Circular No. 7-1. 2010-Building dated 8.4 .2010 not only specifically confers powers on the Head of Circle for de-quarterization of the post quarters in the event of it's becoming uninhabitable, but also, the Ministry of Finance OM No. 2 (7)/1997-E, II(B), dated 14.3.2008 provides for payment of house rent in the event of non-availability of rent-free accommodation for the eligible officials. It has been submitted by the applicant that although the aforesaid problem of the post office has been persisting from the day one when the building was taken on rent and previously almost all his predecessors had brought

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the aforesaid facts to the notice of the Respondent No 2, but for the reasons unknown, no effective steps were taken by the Respondents in this regard except making some enquiries. It has been further submitted that the Superintendent of Post Offices directed the IPO Rajnilagiri for making an inquiry and report about suitability or otherwise of the post quarters, who in turn made an enquiry and submitted his report vide Letter dated 1.2.2009, which according to applicant, the IPO submitted the report conforming the unsuitability and insufficiency of rent free accommodation. However, there being no progress after receipt of the aforesaid report, the applicant submitted one more representation on 22.1.2009 reminding the Respondent No 2 to take remedial measures immediately. In response to this, the then Superintendent of Post Offices, Balasore Division in his letter No. D-57 dated 16.3.2009 called upon the applicant to make some internal change. As compliance of above direction yielded all the same all one, the applicant preferred an appeal to the Director of Postal Services (Headquarters) with a request to intervene in the matter immediately through proper channel, which however, was forwarded by the then Superintendent of Post Offices, Balasore, with some manipulation of facts. While the matter stood thus, the Circle Office having taken note of the deficiencies in the post quarters and on inquiry, directed the Superintendent of Post Offices, Balasore Division, vide order dated 4.2.2010 to de-quarter the Post Office and accordingly, the latter directed the applicant to surrender the so-called post quarters portion of the building to the house owner. In pursuance of this direction, the applicant surrendered the so-called portion of the post quarters to the owner of the building on 31.5.2010 and resultantly, the Superintendent of Post Offices vide Memo Number D-57 dated 17.6.2010, while taking note of all the



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developments directed for payment of HRA, as admissible, in favour of the applicant, in lieu of post quarters with effect from 1.6.2010. In the above backdrop of the issue, it is the case of the applicant that the Superintendent of Post Offices while issuing order dated 17.6.2010 has deliberately ignored his claim to grant of his HRA with effect from 15.4.2008 and thereby the applicant has been prejudiced.

5. Respondent-Department have filed their counter opposing the prayer of the applicant. They have stated that Kuruda Sub-Post Office is a 'C' Class SO which has been functioning in a private rented building having a provision of attached quarters for the SPM since 01.12.1999. The floor area of the rented building is 710 square feet including the floor area of post quarters against the standard of accommodation 850 square feet. On receipt of representation of the applicant about the insufficient accommodation/unsuitability of the post quarters, Inspector of Posts, Rajnigiri, was asked to carry out a detailed inquiry into the matter. The IPO Rajnigiri vide his inquiry report reported dated 01-02-2009 stated that the then present conditions of the post office and SPM quarters portion **was not suitable on the part of the SPM to reside** and suggested some interchanges in between Post Office portion and quarters portion as a result of which the quarters portion would be sufficient in space for the SPM to reside in it and there would be no effect on office portion.

6. Aggrieved with the above, applicant represented to Director of Postal Services, Hqs., Bhubaneswar for dequarterisation of Kuruda Post Office vide his application dated 11.08.2009. Accordingly, the application of the applicant along with brief history and comments were submitted to Circle Office, Bhubaneswar. Thereafter Circle Office in its letter No Bldg/17-9/97-Ch-I dated 22.01.2010 asked the SPOs' office to submit a clear report,

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 recommending dequarterisation or otherwise. Pursuant to this, the then SOPs, Balasore Division, had visited the Khurda PO and in his report dated 18.2.2010 to Circle Office, he had indicated that **only one room is available for SPM's quarters which is insufficient/inconvenience for the SPM to accommodate his family** and accordingly, proposed for its dequarterization by surrendering the quarters portion. In response to this the Circle Office approved the proposal of dequarterisation, which however, was made effective by the grant of HRA as admissible to the applicant with effect from 1.6.2010 vide Memo dated 17.6.2010.

7. According to Respondents, there was no deduction of SPM's share of electricity charges from the salary of the SPM Kuurda SO in accordance with order No.D-57 dated 25.1.2005.

8. I have heard Shri T.Rath, learned counsel for the applicant and Shri S.Barik, learned Addl.Central Government Standing Counsel for the Respondents and perused the pleadings of the parties. I have also gone through the rejoinder filed by the applicant.

9. Indisputably, the floor area of the rented building is 710 sq. ft. which is inclusive of the floor area of post quarters, against the Standard of Accommodation 850 sq.ft. From this, it is quite transparent that the rent free attached quarters earmarked for the SPM was not commensurate with Standard of Accommodation and therefore, the corollary is that the provision of rent free attached quarters was not having the prescribed standard equal to the standard and class of accommodation to which the applicant was entitled to. This fact has also been admitted by the Respondents in their counter to the effect that **the only one room is available for SPM's quarters which is insufficient/inconvenience for the**

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SPM to accommodate his family. In the face of this admitted position, there is no need to go into the pros and cons of the matter.

10. Since with probity and candour, the Respondents have unveiled the position and made the matter more luculent before the Tribunal to come to a just conclusion in issuing Memo dated 17.6.2010 wherein they have taken a decision to grant HRA in lieu of Post quarters to the SPM Khurda with effect from 1.8.2010, the only point needs to be determined is whether the applicant will be so granted with effect from 15.4.2008 to 31.5.2010. In this connection it is noteworthy to mention that the result which has been attained prospectively could have been obtained retrospectively by applying the same standard of consideration, i.e. insufficient/inconvenience for the SPM to accommodate his family, which having been so applied Memo dated 17.6.2010 came to be issued by granting HRA to the applicant w.e.f. 1.8.2010. It is also an admitted position that the applicant has not at all moved to rent free accommodation. In the circumstances, I cannot but hold that the ends of justice would not be met if the applicant is not granted HRA for the period from 15.4.2008 to 31.5.2010. Accordingly, the point in issue is answered in the affirmative in favour of the applicant.

11. As regard the deduction of electricity dues from the salary of the applicant, it is the case of the Respondents that there was no deduction of SPM's share of electricity charges from the salary of the SPM Khurda SO in accordance with order No.D-57 dated 25.1.2005. However, the applicant has not refuted this fact in the rejoinder. Be that as it may, if at all any amount has been deducted from the salary of the applicant towards the electricity dues, he is liable to get this amount refunded.



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12. For the forgoing discussions, I direct Respondent No.1, i.e., Chief Post Master General, Orissa Circle, Bhubaneswar to issue appropriate orders in supersession of order dated 4.2.2010, approving and giving effect to the proposal of de-caquarterization retrospectively, from 15.4.2008 and accordingly, grant HRA and LA, as admissible to the applicant, till 31.5.2010.

Ordered accordingly.

13. The above exercise shall be completed within a period of three months from the date of receipt of this order.

14. In the result, the O.A. is allowed as above. No costs.


(A.K.PATNAIK)
MEMBER(J)