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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

Original Application No.937 of 2012
Cuttack, this the 17th day of October, 2014


N. Jena Applicant

-Versus-

Union of India & Others Respondents

FOR INSTRUCTIONS

1. Whether it be referred to the reporters or not? *yes*
2. Whether it be referred to PB for circulation? *yes*


(R.C. MISRA)
MEMBER(A)

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CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

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Cuttack, this the 17th day of October, 2014

CORAM
HON'BLE MR. R. C. MISRA, MEMBER (A)

Sri Nityananda Jena,
aged about 63 years,
retired Post Master (H.S.G.I) Balasore,
Head Post Office, Balasore,
S/o. Late Sitala Prasad Jena,
At/Po-Balia, Dist-Balasore.

...Applicant

(Advocates: M/s- S. Mohanty, S.C. Mohanty, B. Biswal)

VERSUS

Union of India Represented through

1. Secretary,
Department of Post,
Dak Bhawan,
New Delhi.
2. The Chief Post Master General,
Orissa Circle,
P.M.G. Square,
Bhubaneswar, Dist-Khurda.
3. The Director of Postal Service (Head Qtrs),
P.M.G. Square,
Bhubaneswar,
Pin-752001,
At/Po/PS- Dist-Khurda.
4. Superintendent of Post Office,
Balasore Division,
At/PO/PS/DIS- Balasore,
Pin-756001

...Respondents

(Advocate: Mr. D.K. Behera)

ORDER

R.C.MISRA, MEMBER(A):

The applicant in this Original Application is a retired Officer of the Department of Post, who has come with a prayer that the HRA and TRA Allowance for the period from 19.08.2007 to 30.09.2009 may be paid to him along with interest, by the respondents.



2. The brief facts of the case are that the applicant's services in HSG-II cadre regular post were approved on 10.01.2006. While the applicant was working as officiating Post Master (HSG-I), Balasore, certain amounts towards HRA/water tax were recovered from his salary of June, 2006. The applicant did not occupy the post quarters, so the question of recovery did not arise. The applicant submitted representation to the authorities praying that drawal of HR/TRA in lieu of attached quarters facility may be allowed in his favour. He further pleaded that the quarters provided to him was not in a habitable condition. Moreover, it was a Type-II staff quarters, whereas as HSG-I Post Master, he was actually entitled to Type-III staff quarters. The Superintendent Post Offices, Balasore Division by an order dated 05.05.2008 allotted a Type-III quarters for his occupation, and he was instructed to take possession of these quarters within a period of seven days. The applicant did not, however, occupy the allotted quarters and on the other hand wrote to the authorities that these allotted quarters were at a distance of 2 k.ms from the Office. He had built his own house by taking a house building loan from the Department which was nearer to the re-allotted quarters, and therefore he requested his authorities to cancel the new allotment. His representation was rejected, and by an order dated 08.07.2008, the superintendent of Post Offices, Balasore, again instructed him to take possession of quarters.

3. On 29.07.2008 the applicant made another representation, on the basis of which the authorities allowed him to draw HRA as admissible. In the meantime, the applicant retired from service on 31.10.2009. The authorities have allowed him to draw his HRA from 01.10.2009 to

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31.10.2009. However, in this O.A. he has made a prayer for HRA from 19.08.2007 to 30.09.2009, on the ground that for this period, he did not occupy the post quarters.

4. The respondents in their counter affidavit have submitted that the applicant worked as Post Master (HSG-I), Balasore HO with effect from 01.03.2006 by relieving one Sri K.C. Behera who voluntarily retired on 01.03.2006. The applicant did not occupy the post quarters on the ground that he was not regularly posted. He represented to Director, Postal Services for sanction of HRA. His representation was considered and HRA was allowed to be drawn in his favour. Later, the applicant was regularly posted as Postmaster HSG-I at Balasore HO. Therefore, orders were issued to stop draw^al of HRA/TRA, since there was a post quarter meant for the Postmaster. Applicant made a representation stating that the post-quarter was unsuitable for habitation. The Department thereafter made repairs to the quarters. The repairs were completed on 18.08.2007. Order was issued for drawal of house rent allowance in lieu of post quarters, upto 18.08.2007. Even then, the applicant did not occupy the quarters, and made further representation about his entitlement for a Type-III quarters. On consideration of his representation, he was allotted a Type-III quarters available at Postal Colony, Sahadev Khunta. The applicant did not occupy these quarters also, and requested the Director, Postal Services for suspension of postal quarters. The dequarterisation of earmarked post-quarters meant for Postmaster, Balasore HO was ordered vide letter dated 24.09.2009. The applicant in his representation dated 16.10.2009 requested authorities to allow his house rent allowance for non-occupation of post-

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quarters. This representation along with parawise comments was forwarded by Superintendent of Post Offices, Balasore to the CPMG, Odisha by letter dated 22.02.2010. However, in the meantime, the applicant retired from Government service on reaching his age of superannuation on 31.10.2009. Subsequently also, applicant made a few representations, which were still pending for disposal.

5. The respondents have argued that the applicant did not occupy the quarters meant for the Postmaster, Balasore HO on the plea that the quarters were not habitable, which is a false and fabricated ground. His intention all along was to stay in his own house. When a Type-III quarters as per the entitlement of HSG-I was also allotted in his favour, he again refused to occupy the quarters. The sole objective of the applicant was to get HRA and TA by not taking possession of post-quarter at any cost. Based upon this argument, the respondents have pleaded that the prayer of the applicant has no merit. He has infact failed to comply with the orders of the authorities by refusing to take possession of the post-quarters.

6. Having heard learned counsels for both sides, I have perused the records. The learned counsel for applicant has also filed written notes of submission in which he has submitted that applicant did not occupy the Type-II quarters because it was small and not as per his official status. Later, he was allotted Type-III quarters at Sahadev Khunta which was two kilometres away from the Post Office. By that time, applicant had constructed his own house. So he refused to occupy the quarters. The applicant never occupied his post quarters at Balasore, and on 31.10.2009 he retired from service. He has been paid HRA from 01.03.2006 to

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18.08.2007, and has approached the Tribunal, praying for payment of HRA from 19.08.2007 to 30.09.2009. The learned counsel for the respondents, in his written notes has argued that the applicant violated the orders of authorities, and did not occupy Type-II quarters even after repairs, and Type-III quarters also when it was allotted.

7. The learned Additional Central Government Standing Counsel filed a memo dated 16.09.2014 after the hearing was closed, enclosing copy of order dated 08.09.2014 issued by Director, Postal Services by way of disposing of the representation of the applicant dated 28.04.2011 in which he has intimated that non-drawal of the house rent allowance for the relevant period was in order. However, this can not be taken as part of the pleadings. This order has never been brought within the purview of this O.A.

8. Without repeating the facts of the case all over again, I would straight way come to the issue concerned, i.e., whether the applicant was entitled to get HRA for the period 19.08.2007 to 30.09.2009 as claimed by him in this O.A. The only ground on which applicant claims the same is that he did not occupy the post quarters. But facts clearly point out that on the request of the applicant, the Type-II quarters was repaired, and later a Type-III quarters was allotted to him. He did not take possession of the same, and refused to carry out the orders of the authorities. Therefore, eligibility of the applicant for getting HRA for the disputed period is not automatic, but subject to orders of the authorities who will decide the matter according to Rules. It is also surprising that when on the request of the applicant, repairs of the quarters were taken up, and later, a higher type quarter was allotted, the applicant refused to take possession citing the

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reason that by that time his own house was constructed with Government loan. It is also seen that respondents have failed to deal with the matter with clear, decisive order. Even when the applicant has retired, and has made representations continuously even after retirement, no expedition was exhibited in disposing of the matter.

9. The applicant retired on superannuation, on 31.10.2009. He has filed this application on 11.12.2012, more than three years after retirement. Even though he made representations to authorities even after his retirement, and did not receive any reply, this can not save him from the limitation. The applicant has failed to approach the Tribunal well in time, considering the fact that he has superannuated since 31.10.2009. Coming to the merits of the case, the applicant has failed to establish his claim that he was entitled to receive the HRA for the disputed period, in conformity with the Rules. He himself has in fact admitted that inspite of direction of authorities to take possession of the Type-II quarters, and subsequently of Type-III quarters, he refused to carry out the orders. What he merely pleads is that because he did not occupy the post-quarters, he is entitled to HRA. Such a claim is not admissible, when it is unsupported by the Rules.

10. Therefore, because of the above considerations, the O.A. is dismissed both on the grounds of merit and limitation.


(R.C. MISRA)
MEMBER(A)