

**CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH, JODHPUR**

Original Application No. 144/2011

Misc. Application No.90/2011

Jodhpur this the 1st day of December, 2014

CORAM

**Hon'ble Mr. Justice Kailash Chandra Joshi, Member (Judicial),
Hon'ble Ms. Meenakshi Hooja, Member (Administrative)**

Chandra Singh Kothari s/o Shri Roshan Singh, aged 60 years r/o 60, E-3 Bapu Nagar, Senth, Chittorgarh, Retired Postal Assistant, Head Post Office, Chittortgarh.

....Applicant

By Advocate: Mr Vijay Mehta

Versus

1. Union of India through the Secretary, Ministry of Communication (Department of Posts), Sanchar Bhawan, New Delhi.
2. The Superintendent of Post Offices, Chittorgarh
3. The Postmaster General, Southern Region, Rajasthan, Ajmer.
4. The Chief Post Master General, Rajasthan, Jaipur.

.....Respondents

By Advocate : Ms K. Parveen.

ORDER (Oral)

Per Justice K.C. Joshi, Member (J)

The applicant has filed Misc. Application No. 90/2011 for condonation of delay in filing the present OA. We have considered the Misc. Application and in the interest of justice, the same is allowed.

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2. The present application has been filed by the applicant praying that the respondents may be directed to make payment of HRA and TA for the period from 8.9.2006 to 21.5.2010.

3. By way of this OA, the applicant has submitted that while he was serving under respondent No.2 and was posted as SPM, Arnod, District Chittorgarh from 8.9.2006 to 21.5.2010, he had to reside in the accommodation other than the earmarked accommodation for SPM. The residential accommodation provided with the Post Office was not worth living for last many years as there was no light fitting and no pipe line fitted in the house and the same was in urgent need for major repair. His predecessor has also invited attention of respondent No.2 towards the condition of the accommodation vide letter dated 11.6.2004 and respondent No.2 visited the Post Office and in his report mentioned for requirement of major repair urgently. Respondent No.2 in his inspection report dated 23.12.2006 also mentioned that the accommodation is not worth living for SPM. Despite above, when no action was taken by the respondents, the applicant sent letter dated 16.4.2006 to respondent No.2 for making payment of HRA. Thereafter applicant also sent many representations for grant of HRA and he has to live in his own house and had to travel daily from his village for performing duties. Therefore, aggrieved with the action of the respondents, the applicant claims that he is entitled to HRA and TA and hence he has filed this OA for these reliefs.

4. By way filing reply to the OA, the respondents have denied the right of the applicant and submitted that the Post Office is functioning in a rented building since 27.1.1969 having post attached residence. The Lardlord has filed a case No.99/2003 in the court to vacate the office building and due to court

case and non availability of suitable rented building, the post office has not been shifted in another building and no major repair work got done by the Landlord/department. The report for de-quarterization of post attached residence of Arnod Post Office was submitted to RO vide letter dated 23.1.2007 in which de-quarterization was recommended. The respondents have further submitted that to draw HRA, the applicant did not reside in the attached residence stating that it was not worthy living and HRA cannot be paid till the orders for de-quarterization are issued by the competent authority. According to the respondents, the applicant was posted at Arnod so he is not entitled for any TA for journey to his village. He resided in his village unauthorisedly without prior permission of the competent authority. As per provisions of Rule 37 of the Postal Manual VI Part-I read with SR 311 and 312, the applicant was in occupation of attached rent free accommodation provided to him at Arnod PO and his version to travel and reside in his village is violative of Rule 62 of the Postal Manual Vol.III and as such he is not entitled for any HRA and TA and the OA deserves to be dismissed.

5. Heard both the parties. Counsel for the applicant contended that the residential accommodation provided with the post office was not worthy of living for the last many years. There was even no light fitting and no pipe line fitted in the house. The house was in urgent need of major repairs without which the same is unlivable. Shri Nathu Lal Meena, SPM vide his letter dated 11.6.2004 invited attention of respondent No.2 towards the fact that the accommodation is not worth living and therefore, requested to pay him HRA (Ann.A/1). Further, the respondent No.2 paid visit to the post office on 24.8.2005 and he mentioned in his report dated 24.8.2005 (Ann.A/2) that there

is no electricity fitting and the building requires major repairs urgently. The respondents No.2 vide his letter dated 1.9.2005 invited attention of respondent No.3 that due to not undertaking the repair work in the building no SPM has been residing therein for a very long time and requested him to take steps for shifting the Post Office and accommodation to another place in view of the fact that a litigation is going on with the land lord for vacation of the accommodation (Ann.A/3). Ann.A/4 is another inspection report dated 23.12.2006 wherein it is stated that the accommodation is not worth living for SPM. When in spite of these reports no action was taken by the respondents then, the applicant sent letter dated 16.4.2006 (Ann.A/5). Counsel for the applicant further contended that respondent No.2 vide letter dated 10.1.2007 and 23.1.2007 while drawing attention of respondent No.3 towards the fact that the accommodation is not worth living requested him to grant concession to the SPM for not living in that accommodation and grant him HRA. The respondent No.2 vide his letter dated 8.11.2007 addressed to respondent No.3 submitted that the condition of the building is deplorable. The applicant submitted representation on 17.4.2010 (Ann.A/8) to respondent No.3 and respondent No.3 vide letter dated 27.4.2010 (Ann.A/9) written with reference to the representation (Ann.A/8) directed the respondent No.2 to immediately send him report about the grant of HRA to the applicant. The applicant filed representation on 11.5.2011 (Ann.A/10) to respondent No.4 but no reply has been sent to him. Counsel for the applicant submitted that it is well established that the accommodation earmarked for SPM is not worthy of living and the applicant did not live therein. He was obliged to live in his own house and had to daily come from his village to attend his duties. Thus, he is entitled to HRA and TA for the period he remained posted at


Arnod from 8.9.2006 to 21.5.2010 and from day one he has been submitting letters and representations to the respondents for grant of HRA and TA. Thus, aggrieved of the action he has filed this OA.

6. Counsel for respondents contended that the Arnod PO is functioning in a rented building of "Adim Jati Seve Sangh Arnod" since 27.1.1969 having post attached residence. The Landlord has filed a case No.99/2003 before the court of learned Additional Chief Judicial Magistrate, Pratapgarh to vacate the post office building. The said post office has not been shifted in another building and due to court case no major repairs got done by the Landlord/Department and the applicant worked as SPM Arnod during the period from 8.9.2006 to 21.5.2010 having post attached residence, therefore, HRA was not paid to him as per rules. The counsel for the respondents further contended that report of de-quarterization of post attached resident was submitted to the RO but he made some queries on the above report. It has been further contended that Head of Circle is competent for de-quarterization for a maximum period of six months, thus HRA was not paid to any SPM Arnod. The applicant retired on 31.3.2011 and thereafter he has filed the present OA for payment of HRA and TA. So far as the version of the applicant that he travelled from his village to Arnod, the counsel for the respondents contended that the applicant travelled without the permission of the competent authority which is in violation of Rule 62 of the Postal Manual Vol.III. The competent authority never sanctioned the house rent to the applicant, therefore, he is not entitled for any house rent.

7. Considered the arguments advanced by both the parties and perused the material available on record. Although the applicant and his predecessor have requested the competent authority for de-quarterization of the attached

residence to the post of SPM, but the competent authority made certain queries and it was not de-quarterized by the postal authorities. Unless and until it is de-quarterized and in the absence of prior permission of the competent authority as per provisions of Rule 37 of the Postal Manual VI Part-I read with SR 311 and 312, the applicant was in occupation of the attached rent free accommodation provided to him at Arnod, the applicant is not entitled to HRA. He never submitted his TA details to the department for his journey from his village and Arnod and vice-versa, and in our considered view, some time is required to complete the formalities by the department for de-quarterization of the accommodation particularly when civil suit is pending and time taken in said de-quarterization cannot be said to be negligence on the part of the department and in the absence of any permission of the competent authority, if he has travelled from Arnod to his village, it is against the rules. Therefore, the applicant is not entitled to any relief.

8. Accordingly, the OA is dismissed being devoid of merit with no order as to costs.


(MEENAKSHI HOOJA)
Administrative Member


(JUSTICE K.C.JOSHI)
Judicial Member

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