

CENTRAL ADMINISTRATIVE TRIBUNAL  
CALCUTTA BENCH

OA No.1136/97

Present : Hon'ble Mr.B.V. Rao, Member(J)  
Hon'ble Mr.A.R. Basu, Member(A)

Dwijadas Banerjee

-Vs-

- 1) Union of India service through the Secretary, Ministry of Communications, Department of Posts, Dak Bhawan, New Delhi - 1
- 2) Chief PMG, West Bengal Circle, Yogayog Bhawan, C.R. Avenue, Calcutta - 700 012
- 3) Superintendent of Post Offices, Barasat

For the applicant : Mr.P.K. Munshi, Counsel

For the respondents : Ms K. Banerjee, Counsel

Date of Order : 10.11.2006

ORDER

Mr.B.V. Rao, JM


Shri Dwijadas Banerjee has filed this OA under Section 19 of A.T. Act, 1985 seeking the following reliefs :

- a) to direct the respondents to cancel, withdraw and/or rescind the purported order dated 15-9-97.
- b) to direct the respondents to regularize the period in question as authorized occupation of the said quarter by the applicant.
- c) to direct the respondents not to deduct any amount from the pay packet of the applicant in terms of the said impugned order dated 15-9-97 in any manner whatsoever and/or adjust any amount from the retiral benefit of the applicant as contemplated therein.
- d) to direct the respondents to produce the entire records of the case before this Tribunal for adjudication of the points at issue.

2. The brief matrix of the case according to applicant are that he was initially appointed as a Postman in the year 1965 and thereafter promoted to the post of Clerk in the year 1971 and finally promoted as Sub Postmaster in the year 1975 and while he was posted at Itinda he was allotted post attached Quarters there. Since his wife was seriously ill the applicant requested the authorities to allow him to retain the said post attached



quarter for a year for treatment of his wife. He further submitted that he was transferred to Basirhat HO vide order dated 19-4-93 and posted as TB P/A. He was again asked to join at Itinda as SPM vide order dated 10-6-93. Again he was transferred back to Basirhat HO vide order dated 7-9-93 and he made further representation to the authorities on 15-9-93 allowing him to retain the post attached quarters at Itinda at least upto April 1994 to facilitate the treatment of his ailing wife without any difficulty. He further submitted that again he was transferred to Babla SO vide order dated 29-4-94. He further contended that since the authorities did not communicate anything regarding retention of said post attached quarter at Itinda he made further representation dated 2-5-94 with the same prayer. Having no communication from the authorities he made further representations on 11-5-94 and 20-5-94 reiterating his earlier prayer and also praying to grant necessary permission to stay outside Babla Post Office premises since the quarters at Babla was not in inhabitable condition. He further submitted that his prayer was cancelled by the authorities vide order dated 17-2-97 and he was asked to vacate the quarters within 7 days from the date of receipt of the said order and accordingly he vacated the said quarters on 17-2-97 itself and intimated the same to the authorities. He further submitted that vide memo dated 23-7-97 the applicant was accorded the payment of House Rent allowance in lieu of post attached Quarters w.e.f. 8-6-94 as the attached quarters of the Babla PO was not in inhabitable condition, but he did not accept any House rent Allowance since he was in occupation and enjoying the said post attached quarter at Itinda till 16-2-97. He further submitted that he was served with an order dated 15-9-97 whereby recovery of damage rent w.e.f. 10-5-93 to 16-2-97 for the alleged unauthorized occupation of quarter at Etinda PO was sought to be made to the tune of Rs76834.90 from the pay and allowances of him in 36 instalments. Having received the above said order he made a representation stating the entire facts with a prayer to cancel the same. He further submitted that he was due to retire on 28-2-98 on superannuation and after retirement his livelihood would be met out of the amount of DCRG. If the alleged recovery of damage charges is made from the DCRG he will have to face starvation. Being aggrieved, he approached this Tribunal to ventilate his grievance.



2. The respondents contested the matter by filing reply stating that the representations of the applicant for extension to the post of SPM Itinda PO could not be acceded to which was informed to him vide office letter dated 23-3-93 and his representations for extension at Itinda PO and for posting at Hansnabad and Katiahat respectively was rejected and was informed on 1-10-93 to the applicant. They further contended that the applicant did not submit representation for retention of the post attached quarters of the Itinda PO and the same was cancelled and he was requested to vacate the same within 7 days and he vacated the same on 17-2-97. The further submitted that the applicant occupied the quarters unauthorisedly w.e.f. 10-5-93 to 16-2-97. So damage charge for unauthorized occupation of the said quarter was ordered to be recovered in pursuance of CO instruction vide order dated 5-8-97 as per the rules in force. Hence the respondents contended that the applicant is not entitled to claim any relief and the OA is liable to be dismissed.

3. Heard both the parties.

4. The learned counsel for the applicant reiterated the facts of the case and he mainly stated before us that the applicant made several representations to the concerned authorities with a prayer to retain the post attached quarters since his wife was seriously ill and she was under treatment, but the authorities in stead of allowing him to stay in the said post attached quarters, issued the impugned order for recovery of the damages for the period of the alleged unauthorized occupation. He further stated before us that since the applicant requested the authorities through several representations, the impugned order passed by the authorities for recovery of the damages is illegal and out of jurisdiction. He further contended that the Tribunal passed an interim order dated 29-9-97 stating that no recovery shall be made from the pay and allowances of the applicant during the service period towards damage charges in terms of the impugned recovery order. He further prayed to allow the OA by granting the reliefs as prayed in the application.

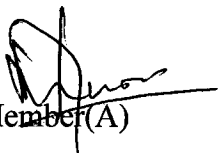
5. Per contra the learned counsel for the respondents vehemently argued and opposed the submissions and contentions of the applicant. She mainly stated before us




that the applicant never represented to the authorities for retention of the post attached quarters at Itinda, but he prayed to retain him in the same post since his wife was seriously ill. She further contended that since the applicant was transferred from Itinda to another place he was required to vacate the post attached quarter immediately after the transfer but he unauthorisedly and without any sanction or permission continued in the said quarters. Hence the respondent authorities rightly issued the impugned order for recovery of damage charges for his unauthorized occupation in the said quarters for the said period. She repeatedly stated before us that the authorities rightly issued the impugned order for recovery of damage charges as per the rules that was in existence at the relevant point of time.

6. We have considered the arguments and submissions of both the parties. After traverse the pleadings and material on record and after a careful consideration of submissions of both the parties, we find that the applicant made several representations to the authorities only for a prayer to retain him in the said post but not for retention of the post attached quarter at Itinda. Since the applicant continued in the said post attached quarter even after his transfer without any permission the action taken by the respondent authorities in issuing the impugned order dated 15-9-97 for recovery of damage charges is just and proper.

7. In the result for the foregoing reasons and discussions made above we do not find any merit in the instant OA and the same is accordingly dismissed and the interim order dated 29-9-97 is vacated. No order as to costs.

  
Member(A)

  
Member(J)