

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
ERNAKULAM

O. A. No. 481/89  
XXXXXX

XXX

DATE OF DECISION 31-8-1990

P Neelakandan Nambisan Applicant (s)

Applicant in person Advocate for the Applicant (s)

Versus

The Director of Postal Services, Calicut Region Respondent (s)  
Calicut and another

Mr TPM Ibrahimkhan Advocate for the Respondent (s)

CORAM:

The Hon'ble Mr. SP Mukerji, Vice Chairman

&

The Hon'ble Mr. AV Haridasan, Judicial Member

1. Whether Reporters of local papers may be allowed to see the Judgement? *Y*
2. To be referred to the Reporter or not? *Y*
3. Whether their Lordships wish to see the fair copy of the Judgement? *Y*
4. To be circulated to all Benches of the Tribunal? *Y*

JUDGEMENT

(Mr AV Haridasan, Judicial Member)

In this application filed under Section 19 of the Administrative Tribunals Act, the applicant presently working as Assistant Sub Postmaster, Manjeri has prayed that the respondents may be directed to treat the Areacode Post Office as not provided with quarters during the period from 20.6.1987 to 4.5.1988 during which period he was working there as Sub Postmaster and pay him the HRA and compensation in lieu of rent free accommodation. The material averments in the application can be briefly stated as follows:

2. On promotion as LSG(Supervisory) Cadre, the applicant was posted as Sub Postmaster, Areacode by the order of the

second respondent dated 7.4.1987. He joined there as Sub Post Master on 20.6.1987 and worked upto 4.5.1988. Officials posted as Post Masters are eligible for rent free accommodation as a condition of their service. If rent free accommodation is not provided, they are eligible for usual House Rent Allowance like other officials and compensation in lieu of rent free accommodation as per letter No.30-1/74-PAP dated 30.9.1974 of Director General of Posts and Telegraphs, New Delhi. As the quarters attached to the Areacode Sub Post Office was unfit for occupation as the same was in a very bad state of disrepair and wanting in primary amenities, like bath room etc. the applicant could not occupy the quarters. In his letter dated 9.7.1987(Annexure-A3) addressed to the second respondent, the applicant made it clear that on account of the lack of facilities and the bad state of the building and as the land<sup>l</sup> lady was unwilling to carry out the necessary repairs, he was not in a position to occupy the quarters and requested that the office may be de-quarterised. Though the second respondent by his letter dated 10.8.1987(Annexure-A4) directed the land<sup>l</sup> lady to carry out the necessary repairs to the building, the land<sup>l</sup> lady did not carry out the same. The second respondent thereupon moved to the Accommodation Controller, Manjeri for getting the repairs done, but during the whole period from 20.6.1987 to 4.5.1988 when the applicant worked as Sub Post Master, the building was not made fit for occupation, he could not occupy the quarters and he was not

paid the HRA or compensation in lieu of rent free accommodation. The applicant in his letter dated 30.6.1988 (Annexure-A6) requested the first respondent to sanction him HRA, treating the Post Office as de-quarterised during the period while he held office there. But this request was rejected by the first respondent vide his letter dated 22.7.1988 addressed to the second respondent (Annexure-A1). This decision of the first respondent was communicated to the Post Master, Manjeri under whom the applicant is presently working by the second respondent vide his letter dated 27.7.1988 (Annexure-A7). Though the applicant took up the matter with the Post Master General in his petition dated 21.1.1989 (Annexure-A8), there was no response. Since the applicant was not provided with a habitual quarters during the period from 20.6.1987 to 4.5.1988, he is entitled to get HRA and compensation in lieu of rent free accommodation as laid down in letter No.30-1/74-PAP dated 30.9.1974. Since his representation did not evince a favourable response, the applicant is constrained to file this application.

3. In the reply statement filed by the second respondent on behalf of the respondents, though it is admitted that the quarters attached to the Areacode Post Office was in a bad state of disrepair and was not provided with a bath room, it is contended that as the applicant was not permitted to stay away from the Government accommodation provided and as his predecessors and successors did not raise any complaint

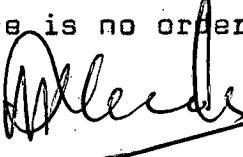
regarding the lack of amenity and as they were occupying the quarters, the question of paying HRA to the applicant did not arise and that therefore his request for de-quartering has been rightly rejected.

4. We have heard the arguments of the applicant and the learned counsel for the respondents. It is an admitted case that the quarters attached to the Areacode Post Office was in a very bad state of disrepair and that it was not provided with a bath room. It is most inconvenient though not absolutely impossible to stay in a quarter which is not provided with the amenity of a bath room. From Annexure-A9 order of the Accommodation Controller, Manjeri dated 6.4.1988, it is evident that the roofs of two rooms in the building including kitchen were leaking heavily and that one door was completely damaged being damaged by white ants. It is cruel to compel an officer who has a family, to reside in a building with leaking roofs and useless doors and which is devoid of the basic amenity of a bath room. The applicant has made it clear to the respondents in his correspondence that as the quarters was not habitable, he was not occupying it. Even if the predecessors or successors of the applicant did not raise a complaint about the condition of the quarters, it cannot be reasonably argued that the applicant also should have put up with the inconvenience and resided in the quarters. Further, no action had been taken against the applicant for non-occupation of the quarters. An officer

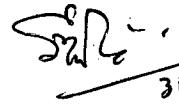
can be compelled to stay in headquarters only if it is a habitable one and in our view, a small building of which two rooms including kitchen are having leaking roofs and which is not provided with a bath room cannot be considered as suitable for occupation by a Sub Post Master with his family. The conduct of the applicant in not occupying the quarters therefore cannot be faulted. Since the quarters attached to the Areacode Post Office when the applicant worked from 20.6.1987 to 4.5.1988 was not provided with habitable quarters, we hold that the applicant is entitled to get HRA and compensation in lieu of rent free accommodation as provided for in the letter No.30-1-/74-PAP dated 30.9.1974 of the Director General of Posts & Telegraph, New Delhi during this period.

5. In the conspectus of facts and circumstances, we allow the application and direct the respondents to treat the Areacode Post Office during the period from 20.6.1987 to 4.5.1988 as not provided with quarters and to pay to the applicant/the usual HRA and compensation in lieu of rent free accommodation for the above said period within a period of two months from the date of communication of this order.

There is no order as to costs.

  
( AV HARIDASAN )  
JUDICIAL MEMBER

31.8.90

  
( SP MUKERJI )  
VICE CHAIRMAN

31.8.90

31-8-1990

trs