

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

OA No. 526 of 2002

Friday, this the 29th day of November, 2002

CORAM

HON'BLE MR. A.V. HARIDASAN, VICE CHAIRMAN

1. K. Mohanan,
Retired Postal Assistant,
residing at Padmashree,
Devikulam PO, Idukki District.Applicant

[By Advocate Mr. P.C. Sebastian]

Versus

1. The Superintendent of Post Offices,
Idukki Division, Thodupuzha.
2. The Postmaster,
Thodupuzha Head Post Office, Thodupuzha.
3. The Deputy Director Postal Accounts,
Sasthamangalam PO, Thiruvananthapuram.
4. The Union of India, represented by
Secretary to Government of India,
Ministry of Communications,
Department of Posts, New Delhi.Respondents

[By Advocate Mr. K.R. Rajkumar, ACGSC]

The application having been heard on 29-11-2002, the
Tribunal on the same day delivered the following:

O R D E R

HON'BLE MR. A.V. HARIDASAN, VICE CHAIRMAN

The applicant was compulsorily retired from service
with effect from 6-2-2000 and he was in receipt of the pension
of Rs.3000/- per month. His grievance is that a sum of
Rs.1470/- being the entire relief on pension was withheld from
30-4-2002 onwards without informing the reasons for such
withholding. The applicant submitted Annexure A2 letter to the
2nd respondent for informing him the purpose of withholding and
also to give him a receipt for the withheld amount. He did not
get any reply. Alleging that the withholding of the entire



relief on pension of the applicant without informing him of the reasons thereof is illegal, arbitrary and irrational, the applicant has filed this Original Application for a declaration that the action of the respondents in deducting a sum of Rs.1470/- from the applicant's monthly pension with effect from April, 2002 is illegal and for a direction to the respondents to continue payment of monthly pension to the applicant without any deduction and refund the amount already deducted with interest as fixed by this Tribunal.

2. Respondents in their reply statement seek to justify the impugned action of withholding the entire relief on applicant's pension on the ground that the applicant has, even after repeated requests, not vacated the Government Quarters occupied by him beyond the permissible period of retention after retirement and thus a sum of Rs.34,654 was found to be due from him and the relief on pension from April, 2002 is being deducted till the entire amount of Rs.34,654/- would be recovered.

3. The applicant in his rejoinder has contended that although a notice under Sub Section (1) of Section 4 of the Public Premises (Eviction of Unauthorized Occupants) Act, 1971 (Annexure A3) was served on him requiring him to appear before the Estate Officer and the applicant appeared and gave a statement which was recorded as per order Annexure A4, no further steps under the proceedings having been taken thereafter the recovery of a huge amount of Rs.34,654/- without any notice or any basis is opposed to law and principles of natural justice.

4. I have heard Shri P.C.Sebastian, learned counsel of the applicant and Shri K.R.Rajkumar, ACGSC appearing for the

A handwritten signature consisting of a stylized 'M' and a diagonal line extending from it.

respondents and have also perused the materials placed on record. Learned counsel of the respondents invited my attention to the sub-rule (6) of Rule 72 of the CCS (Pension) Rules, 1972, which reads as follows:-

"The recovery of licence fee for the occupation of the Government accommodation beyond the permissible period of four months after the date of retirement of allottee shall be the responsibility of the Directorate of Estates. Any amount becoming due on account of licence fee for retention of Government accommodation beyond four months after retirement and remaining unpaid may be ordered to be recovered by the Directorate of Estates through the concerned Accounts Officer from the dearness relief without the consent of the pensioner. In such cases no dearness relief shall be disbursed until full recovery of such dues have been made."

[emphasis added]

Learned counsel of the respondents argued that in view of the above statutory provision, the consent of the applicant was not required for recovering the amount due to the Government from his relief on pension. Shri P.C.Sebastian, learned counsel of the applicant on the other hand argued that while sub-rule (6) of Rule 72 of the CCS (Pension) Rules permits the Directorate of Estates to have the unpaid licence fee recovered through the Accounts Officer, the provision does not absolve the respondents from the responsibility of fixing the quantum of unpaid licence fee after due notice to the applicant. Although the consent of the applicant may not be necessary for recovery of the amount from the relief on pension, the quantum of unpaid licence fee can be ascertained only after notice to the applicant and that as the respondents have not given the applicant a notice regarding the quantum, the recovery is arbitrary, irrational and opposed to principles of natural justice, argued the counsel.

5. I find considerable force in the argument of the learned counsel of the applicant. In this case, from the

✓

pleadings in the reply statement it is seen that the respondents issued a notice calling upon the applicant to vacate the Quarter on 6-4-2000 and to pay Rs.89/- per month upto that date and to pay double that rate thereafter. It is also seen that the applicant did not vacate the Quarter and repeated notices to vacate the Quarter were issued and ultimately the allotment in favour of the applicant was cancelled with effect from 4-5-2001 and that he was in unauthorised occupation of the Quarter from 4-5-2001. It is further been stated that the applicant vacated the Quarter on 10-10-2001. How the unpaid licence fee would amount to Rs.34,654/- is not made clear. Before proceeding to recover from the pension relief of the applicant the respondents should have informed him what amount of licence fee was due from the applicant on account of occupation beyond 4 months of his retirement remaining unpaid and called upon him to remit the same. This has not been done. The permission under Rule 72(6) of the CCS (Pension) Rules is only to recover licence fee remaining unpaid without the consent of the pensioner. It does not absolve the Estate Officer or other respondents to quantify the amount due after issuing a notice to the pensioner. The failure to do that vitiates the action for violation of natural justice. While the rule permits only recovery of licence fee remaining unpaid, recovery of penal rent without indicating the quantum in an arbitrary manner cannot be justified. Hence the action of the respondents in withholding the entire relief on pension of the applicant in the manner done in this case is opposed not only to the rules but also to the principles of natural justice.

6. In the result, the Original Application is allowed in part. Respondents are directed not to make any recovery from

the relief on pension of the applicant further on account of the licence fee/rent due to the Government for the occupation of the Quarter by the applicant in the manner in which it is done. However, this order will not preclude the respondents from making recovery from the relief on pension of the applicant of the licence fee remaining unpaid after giving him a notice and thereafter quantifying it in accordance with the rules. There is no order as to costs.

Friday, this the 29th day of November, 2002



A.V. HARIDASAN
VICE CHAIRMAN

Ak.

A P P E N D I X

Applicant's Annexures:

1. A-1: A true extract of the relevant portion of Record of Disbursement of Applicant's Pension Payment order No.8362/LPS/TVM.
2. A-2: True copy of the letter dated 16.5.2002 submitted by the applicant to the 2nd respondent.
3. A-3: A true copy of the show cause notice dated 12.7.2001 issued by the Estate Officer PMG'S Office, Kochi-16.
4. A-4: True copy of the proceedings of the Estate Officer PMG's Office, Kochi-16 dated 26.7.2001.

npp
9.12.02