

CENTRAL ADMINISTRATIVE TRIBUNAL

- ERNAKULAM BENCH

O.A. 59 of 1994

Monday, this the 5th day of September, 1994.

CORAM

HON'BLE MR.JUSTICE CHETTUR SANKARAN NAIR, VICE CHAIRMAN

V.Sethumadhavan Nair,
Son of Velukutty Nair,
Section Officer,
Office of the Accountant
General (A&E),
Thiruvananthapuram - 695039.

... Applicant

(By Advocate Mr.P.S.Vasavan Pillai)

Vs.

1. The Accountant General (A&E),
Thiruvananthapuram - 695039.
2. Deputy Accountant General
(Administration),
O/o the Accountant General (A&E),
Thiruvananthapuram - 695039.

... Respondents

(By Advocate Mr.K.Karthikeya Panicker)

O R D E R

Applicant, a Section Officer in the Office of the Accountant General, Thiruvananthapuram challenges A-6 order, by which House Rent Allowance granted to him between 3.8.81 and 31.3.92 is sought to be recovered. A-7 rejecting applicant's request to reconsider A-6, is also challenged. Recovery was ordered in the view that applicant was sharing Government accommodation with his wife and as such he was not entitled to receive House Rent Allowance, by reason of Rule 5-C of the House Rent Allowance and City Compensatory Allowance Rules. According to applicant, his wife was staying in accommodation provided by an autonomous body, and he was not staying with her, but with his mother.

2. A-RI(a) produced by Respondents shows that applicant had issued a certificate to the effect that :

"I am incurring some expenditure on rent/
contributing towards the rent."

Prima facie, this statement is not true, if the statement made

before this Tribunal that he is staying with his mother is to be believed. Applicant has not come to the Tribunal with clean hands.

3. Quite apart from this, the Government cannot recover amounts which by reason of limitation, cannot be recovered under law. In the instant case, the amount sought to be recovered falls in the period between 3.8.81 to 31.3.92. The impugned order was made only on 23.7.92. The Respondents could have recovered only the amount for the three year period preceeding 23.7.92. A-6 to the extent it seeks to recover amounts prior to that date, namely prior to 23.7.89 is quashed. Amounts which were wrongly paid after 24.7.89 can be recovered, in such easy instalments as Respondent Accountant General may decide.

4. Application is disposed of as indicated hereinbefore. Parties will suffer their costs.

Dated the 5th September, 1994.

Chettur Sankaran Nair
CHETTUR SANKARAN NAIR (J)
VICE CHAIRMAN.

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LIST OF ANNEXURES

Annexure A6 : No.I/OE/Bills/A&E/IV/92-93/44 dated 23.7.1992
issued by R2.

Annexure A7 : No.II/OE/Bills/A&E/IV/92-93/ dated 12.10.93
issued by R2.

Annexure R1 (A): True copy of the certificate submitted
by the applicant dated 28.10.86.