

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O. A. No. 214/91
XXXXXX

199

DATE OF DECISION 28.5.92

AN Narayanan

Applicant (s)

M/s Sajan, Mannali & KM Majeed Advocate for the Applicant (s)

The Chief General Manager
Telecommunications
Kerala Circle, Trivandrum Respondent (s)
and another.

Mr Mathews J Nedumpara, ACGSC Advocate for the Respondent (s)

CORAM :

The Hon'ble Mr. NV Krishnan, Administrative Member

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

JUDGEMENT

The applicant is a Section Supervisor in the Central Telegraph Office, Trichur. His grievance is that he has not been sanctioned House Building Advance of Rs 1 lakh to which he is entitled, but the sanction has been limited only to Rs 50,000. He has, therefore, sought a direction to the first respondent to sanction the full amount to which he is legally entitled according to law.

2 The applicant originally applied for a plot advance and house loan in 1980. It appears, he was told by the first respondent that funds were not available for the plot advance. He was, therefore, advised to purchase a plot and then file an application for House Building Advance. He, therefore, raised his own funds to purchase plot and he made an application on 20.7.90 for House Building Advance. It appears from this application that after purchasing the plot he

approached CANFINHOMES, Calicut, who are probably financiers granting loans to persons who want to construct houses, with an estimate of Rs 85,000 for the house. As the work had reached roof level and still about 40 % has to be carried out, he requested for a total loan of Rs 90,000, stating that his basic pay was Rs 2100 and he is entitled to Rs 1 lakh.

3 Ultimately on 5.10.90 by the impugned Annexure A3 letter, the first respondent sanctioned a loan of Rs 50,000 to the applicant for repayment of the loan taken by him for the construction of the house from CANFINHOMES, Calicut.

4 The applicant states that unless atleast a loan of Rs 90,000 is sanctioned, it would not be possible for him to construct the house which is left incomplete now.

5 The respondents have filed a reply. It is stated that according to the HBA Rules, the applicant is entitled to loan of 50 times of his basic pay or the amount equal to the amount borrowed by him from financial institutions whichever is less. As the latter amount, which in the applicant's case is Rs 50,000, is less, that amount has been sanctioned.

6 It is, therefore, contended that the application has no merit. However, as a concession it is stated in para 7 of the reply affidavit that the case has been taken up with the Telecom Directorate to sanction the balance amount of Rs 35,000 (i.e., to make good the estimate/cost of Rs 85,000) ^{as Rs} _{50,000} has already been sanctioned),

provided the applicant produces receipt from the CANFINHOMES after clearing the entire loan amount of HBA sanctioned to him, alongwith other relevant documents like title deed, non encumbrance certificate, possession certificate, etc.

7 ~~He~~ have heard the parties and also perused the record. The respondents cannot take the stand that as the applicant has borrowed only Rs 50,000 from CANFINHOMES, the HBA may be restricted to that amount. Admittedly, even before that institution, the estimated cost was Rs 85,000. Whatever that may be, the applicant should be given the full loan necessary for the construction of his house, even if before he gets a loan from the Government, he borrowed a substantial part of his requirement from any private institution. As a matter of fact, the respondents are now not sticking to the legal stand mentioned in para 1 of their reply.

8 When arguments were heard, it was pointed out that the applicant's house is left half complete and it is necessary to see that this get completed. Respondents have already agreed to pay a loan of Rs 85,000, according to the applicant, ~~the~~ sum required is Rs 90,000 which is well within the limit of his entitlement. I am, therefore, of the view that this is a case where the applicant ought to be sanctioned a total loan of Rs 90,000. However, for that purpose, he has to satisfy certain preliminary conditions. These are mentioned in para 7 of the reply affidavit. In the first instance, he should get a complete

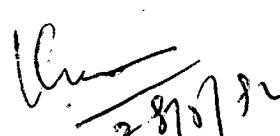
clearance from CANFINHOMES from whom he had borrowed Rs 50,000 after he returns to them all their money for which purpose Government has already sanctioned him a loan.

9 Therefore, in the circumstance, I dispose of this application with a direction to the 1st respondent to sanction a total loan of Rs 90,000 to the applicant, inclusive of the loan of Rs 50,000 already sanctioned. The balance of Rs 40,000 would become payable to the applicant only if, within 2 months from the date of receipt of this ~~the applicant~~ judgment, sends to the first respondent, through his head of office, i.e., SCTO, the second respondent, all the documents necessary to establish that the house which has built so far is free from all encumbrance so that it can be mortgaged to Government as security for government loan. In order to ensure that there is no dispute about this matter, I also direct that the first respondent should communicate, within 15 days from ^{the} receipt of this judgment, particulars of the other certificates or documents which are required by him under law, on receipt of which the applicant should produce all the certificates and claim the balance of the loan.

10 If such a compliance is made by the applicant, ~~in one month~~ the loan shall be paid to him within ~~15 days~~ from the date ^{of} such compliance.

11 The application is disposed of as above.

12 There is no order as to costs.


28/07/82
(NV Krishnan)
Administrative Member