

CENTRAL ADMINISTRATIVE TRIBUNAL:ERNAKULAM BENCH

Date of decision : 09.02.1990.

Present

Hon'ble Shri NV Krishnan, Administrative Member

D.A.No.247/89

P P Thomas : Applicant
Vs. (in person)

1 Union of India rep. by
the Secretary,
Ministry of Communications
New Delhi.

2 Postmaster General
Kerala Circle
Trivandrum-695 033.

3 Senior Superintendent of
Post Offices, Alwaye Division
Alwaye- 682 101

: Respondents

Mr P Santhalingam, ACGSC

: Counsel of Respondents.

O R D E R

The applicant is aggrieved by the fact that he has not been given House Rent Allowance (HRA for short) for the period from 30.3.87 to 28.12.87 when he was working as Postmaster, Alwaye.

2 The facts leading to this application may be noticed.

2.1 The applicant was appointed as Postmaster, Alwaye Head Post Office w.e.f. 30.3.87. It is admitted that he is entitled to be provided with rent free quarters. He contends that such quarters should be provided in the premises of the Alwaye Head Post Office itself or at any rate, very near to that office.

2.2 When he reported for duty there, the Senior Superintendent of Post Offices, Alwaye Division (Respondent-3) informed him by a letter dated 2.4.87 that a Type III Quarter at Kolanipadi, near Choondy a different Station, more than about four kilo metres was allotted to him, but from the office ~~xxx~~ it was not convenient to him. He also states that his predecessors were paid HRA in lieu of rent free quarters.

2.3 The applicant's main contention is that apart from the distance, which was prohibitive and defeats the objective of providing the rent free accommodation so as to ^{be} easily accessible, he had split hours of duty i.e., from 7.00 AM to 11.00 AM and from 3.00 PM to 6.00 PM. In ^{the} long intervals between the two spells of work, it was difficult for him to go home. He also had difficulties in having his food ~~xxxxx~~ as it is claimed that there were no good hotels at Kolanipadi. Besides, this involved additional expenditure on transport.

^{constraints}
2.4 Though these ~~facts~~ were not appreciated by the local authorities, the Postmaster General who visited the place was, apparently, satisfied with the grievance of the applicant and he directed that the quarter allotted

to the applicant be withdrawn. Accordingly, that allotment was withdrawn and he was given HRA from 29.12.87.

2.5 The applicant has since retired. His claim is for HRA for the period from 30.3.87 to 28.12.87 when he did not occupy the quarter allotted to him and claims to have stayed with a friend at Always.

3. The respondents have denied that he is eligible to HRA for the above period because during that period a quarter was allotted to him. So long as the quarter remained allotted to an official, that official is not entitled to any HRA. Besides, it is also stated in the counter affidavit that confidential inquiries made at Always showed that the applicant was not staying in Always. He had merely furnished the residential address of a relative with whom he used to stay occasionally. His real difficulty was that his wife was working elsewhere and as a matter of fact, he was staying with his wife all along. In support of this, he cites Supplementary Rule-312 which provides that the incumbent of a post to which a quarter has been allotted under Rule 311 shall be considered to be in occupation of the residence during the

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period of his incumbency, unless the allotment is ^{an} changed or is suspended under these rules.

4. I have heard the counsel and perused the records carefully. The question is whether the applicant was justified in declining the offer made to him of a quarter at Kolanipadi stated to be four Kilometres away from his office. Prima faice, the applicant had valid grounds for not accepting that quarter at that distance when according to him, he is entitled to be provided with rent free quarter in the premises of the Head Post Office itself. The respondents have not specifically denied that the quarter is to be provided in the premises of the Post Office itself. They have only stated that the office was not provided with residential accommodation for the Postmaster who is eligible for rent free accommodation and that the allotment made at Kolanipadi was of a quarter to be treated as attached to this post.

5. I am of the view that if a quarter is attached to a post, it is for a specific public purpose. The allotment might have been necessitated because:

(i) the officer should be available on call

(ii) constant attention is needed for maintenance

(iii) the office renders public service which cannot be allowed to fail; and

(iv) the safety of the equipment and other valuables requires presence near the office etc.

Therefore, it is meaningless to provide a quarter admittedly four kilometres away from the office and state this ~~is~~ quarter is attached to the Postmaster, Always, and is to be treated as rent free accommodation given to him for this purpose. Apart from the fact that the distance at which the quarter was given would have defeated the very purpose for which it was given, the applicant had also some personal difficulties which cannot be overlooked. For obvious reasons, he could not bring his wife along as she was employed elsewhere^w. He had to stay alone and if as he states, the quarter was provided in a village where there was not even a good hotel, he was well within his rights to decline the offer of the quarter.

6. It has to be admitted that if the Always Post Office could be managed from a distance of 4 kms., the applicant could as well manage it by staying elsewhere in Always Town. The respondent's contention that confi-

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dential inquiries showed that he was not staying in
Always cannot be relied upon for such inquiries were
made behind his back.

7. That apart, in the circumstances mentioned above,
the applicant could very well have lived elsewhere, even
it be with his wife at a separate place, so long as he
discharged his duties properly.

8. In any case, the Postmaster General (Respondent-2)
has, by his action, fully endorsed, by implication, the
stand taken by the applicant. For, on his orders the
allotment was withdrawn and thereafter the applicant
became eligible for HRA from 29.12.87.

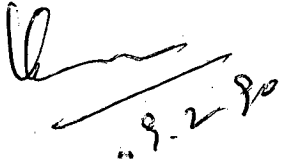
9. In the circumstances, I am satisfied that though
an allotment was made it should have been withdrawn on
the representation made by the applicant. The HRA cannot
be denied on the mere ground that as he was allotted a
quarter which he did not occupy, he is not entitled to
that allowance. His non occupation is for good and
valid reasons and Respondent-3 should have withdrawn
the allotment order even earlier.

10. In the circumstances, this application is allowed

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and respondent-3 is directed to pay HRA to the applicant for the period from 30.3.87 to 28.12.87 within a period of two months from the date of receipt of a copy of this order.

11. There will be no order as to costs.


(N.V. Krishnan)
Administrative Member
9.2.1990.