

Central Administrative Tribunal, Lucknow Bench, Lucknow

Original Application No. 186/2008

This the 10th day of December, 2013

Hon'ble Sri Navneet Kumar, Member (J)

Hon'ble Ms. Jayati Chandra, Member (A)

Om Prakash Tewari aged about 52 years son of Sri Bhawani Bux Tewari r/o village and P.O. Khanpur (pure Visal Tewari) via Kuchera S.O.Faizabad PA SBO, Sultanpur, HO.

By Advocate: Sri R.S. Gupta

Applicant
Versus

1. Union of India through the Secretary, Department of Post, Dak, Bhawan, New Delhi.
2. Director, Postal Services (HQ) o/o Chief Post Master General, U.P., Lucknow.
3. Senior Superintendent of Post Offices, Faizabad.
4. Senior Post Master, Faizabad.
5. Superintendent of Post Offices, Sultanpur.
6. Sri K.K. Dwivedi SBCO, Faizabad.

By Advocate: Sri Rajendra Singh

Respondents

(Reserved on 2.12.2013)

ORDER

BY HON'BLE SRI NAVNEET KUMAR, MEMBER (J)

The present Original Applicant is filed under Section 19 of the AT Act with the following reliefs:-

i) That this Hon'ble Tribunal may kindly be pleased to quash the orders dated 30.8.2006, 18.5.2007, 24.8.2005 and 2.5.2006 as contained in Annexure No.s I to ID and order refund of recovery of Rs.60,649/- along with interest @ 18% from the date of recovery to the date of refund.

ii) Any other relief deemed just and proper in the circumstances of the case with cost of O.A. in favour of the applicant.

2. The brief facts of the case are that the applicant was working in the respondents organization and was allotted a quarter and in pursuance of the said allotment, the applicant took possession of the said quarter on 17.8.2001. Subsequently, an explanation was

sought from the applicant that whether he has allowed some other persons to ^{live} leave along with him in the allotted quarter. The applicant has given reply and subsequently, the applicant was transferred from Faizabad to Sultanpur, where he joined on 12.7.2005. The representation of the applicant was considered and an order was passed. It is also pointed out by the applicant that the appeal filed by him was also not considered and recovery was made to the tune of Rs. 60649/- along with interest @ 8% from the date of recovery till the date of refund. The learned counsel for the applicant has also pointed out that the action taken by the respondents is arbitrary and is liable to be interfered with.

3. Respondents filed their reply and through reply, it was pointed out that the applicant was allotted Quarter No. Type II, Postal Colony, Faizabad vide order dated 30.7.2001 and subsequently the possession was also handed over to the applicant but it is submitted by the respondents that one Sri K.K. Dwivedi has been found to be living in the said premises since 17.8.2001, therefore, vide Memo dated 24.8.2005, the licence fee of ten times of the flat rate of licence fee was levied upon the applicant and further the applicant was declared ineligible for allotment of quarter for the remaining period of his service. The learned counsel for the respondents has also pointed out that the applicant has submitted a representation against the order dated 24.8.2005 which was rejected by the Director Postal Services vide order dated 2.5.2006 and an enquiry was ordered vide memo dated 18.5.2007 under Rule 14 of CCS (CCA) Rules, 1965. The applicant has prayed for quashing of the order dated 24.8.2005 2.5.2006 30.8.2006 and 18.5.2007. and also pointed out that by means of order dated 2.5.2006, the appeal of the applicant was rejected. The learned counsel for respondents has also taken a ground of limitation and submitted that since the present O.A. is preferred in the year 2008 and by means of the prayer sought for, the applicant has challenged

the order dated 24.8.2005, 2.5.2006, 30.8.2006 and 18.5.2007. The respondents in their reply has also pointed out that the quarter was allotted in the name of the applicant and it was legally in his possession but after the enquiry, on the basis of complaint, it was found that O.P. No. 6 was living in his quarter unauthorizedly as such an explanation was sought from the applicant and applicant has given reply and submitted that since he is living in the quarter, therefore, no action to be taken against him. But upon enquiry, it is proved that O.P. No. 6 was living in that quarter.

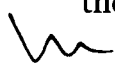
4. Learned counsel for the applicant has filed Rejoinder Reply as well as Supple. RA and has also prayed that the enquiry officer's report of the year 2009 may be taken on record. Subsequently, the applicant has also moved an M.P. No.2046/2011 for amendment in the O.A. and the said amendment application was rejected vide order dated 24.4.2012.

5. Heard the learned counsel for the parties and perused the record.

6. The applicant was working in the respondents organisation, was allotted a quarter No. Type II in the Postal colony, Faizabad through allotment order dated 30.7.2001. The applicant subsequently, taken possession of the said quarter and thereafter, a complaint was received that he allowed one Sri K.K.Dwivedi to reside in the said quarter. As such, an explanation was sought from him and it was informed by the applicant that since he has been transferred to Sultanpur and has also joined there on 12.7.2005 as such he will be vacating the quarter very soon. The respondents again issued a letter dated 4.4.2007 and the applicant was served with the charge sheet vide charge sheet dated 18.5.2007. Prior to the issuance of the charge sheet, the respondents vide order dated 24.8.2005 has cancelled the allotment of quarter No.II and has also passed an order on 2.5.2006 wherein it is categorically pointed out that the applicant who is now working as P.A. SBCO, Sultanpur

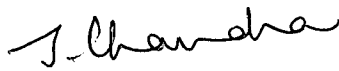
represented to DPS , Lucknow vide his letter dated 30.10.2005 and it was submitted by him that he himself was residing in the quarter concern and Sri K.K. Dwivedi never resided there. In addition to above another representation dated 26.10.2005 and appeal dated 13.10.2005 was also submitted by the applicant and through representation dated 26.10.2005, the applicant has made a complaint against one Sri Kamla Prasad Singh Care Taker and in the appeal dated 31.10.2005, the applicant has submitted that he has joined as P.A., Sultanpur on 12.7.2005 on his transfer from Faizabad as such, Sr. Supdt. of Post Offices, Faizabad was not the competent authority for issuing the impugned order. The respondents considered the contention of the applicant and found that since the quarter was within the jurisdiction of SSP, Faizabad, as such he is fully competent to issue such order. Considering the appeal of the applicant, along with relevant records it is found that the grounds taken in the appeal are having no merits therefore, the same was rejected by the Director of Postal Services, Lucknow. It is also to be pointed out that after the order passed on 2.5.2006, the respondents has passed an order on 30.8.2006 whereby it is pointed out that recovery of Rs. 60,649/- may be made from the applicant.

7. Be that as it may, the respondents received a complaint and a show cause notice was issued to the applicant and the applicant has also replied to the show cause notice and after that a enquiry was conducted and during the course of enquiry, it was found that one Sri K.K.Dwivedi is living in the house allotted in the name of the applicant. It is also to be pointed out that the applicant was transferred to Sultanpur and he joined there on 12.7.2005, and the order of recovery is from 17.8.2001 to 30.6.2004 and 12.7.2004 to 30.6.2005 and the applicant joined at Sultanpur on 12.7.2005. As such, it cannot be said that the recovery pertains to the period after the transfer of the applicant. The enquiry report submitted by the

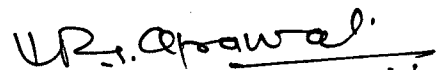


applicant along with Supple.R.A. is an enquiry report pertains to the year 2009 in response to some charge sheet dated 14.6.2007 which is not the subject matter of the present O.A. Since the applicant duly participated in the enquiry and he has also given the reply and during the enquiry, it was found that one Sri K.K.Dwivedi was residing in the accommodation allotted to the applicant, as such the recovery made against the applicant appears to be justified and no interference is required in the present O.A.

8. Accordingly, O.A. is dismissed with no order as to costs.



(JAYATI CHANDRA)
MEMBER (A)



(NAVNEET KUMAR)
MEMBER (J)

HLS/-