

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PATNA BENCH : PATNA

Date of Order :-23.11.2005

Registration No. OA-724 of 2005

C O R A M

Hon'ble Km Sadhna Srivastava, Member (J)

(Mrs.) Dr. Nirmala Kumari, Wife of Dr. Dinesh Kumar Dinkar, PGT Chem.,
KV No.2, Gaya

...Applicant

-By Dr S.P.Singh, Advocate

Versus

1. Union of India, Ministry of HRD (Department of Education), Shashtri Bhawan, New Delhi-110001, Service through Commissioner, Kendriya Vidyalaya Sangathan, 18 Institutional Area, Shaheed Jeet Singh Marg, New Delhi-110016.
2. The Commissioner, Kendriya Vidyalaya Sangathan , 18 Institutional Area, Shaheed Jeet Singh Marg, New Delhi-110016.
3. The Assistant Commissioner, Kendriya Vidyalaya Sangathan, Patna Region, P.O. Lohia Nagar, Kankarbagh, Patna-800020.
4. The Principal, Kendriya Vidyalaya No.2, A.S.C. Centre (North), Paharpur, Gaya

...Respondents

-By Shri G.K.Agrawal, Additional Standing Counsel

O R D E R (Oral)

Hon'ble Km Sadhna Srivastava, Member (J):- By means of this O.A. the applicant has challenged Annexure-A-1 through which Internal Audit Party,Kendriya Vidyalaya Sangathan, Gaya, ordered for recovery of

Rs.35,212 towards HRA on the ground that the applicant is working in Magadh University, Gaya as Assistant and residing in Quarter No.T/27 Magadh University. It is mentioned in the impugned order that as per Rule, if spouse of the employee is provided Government accommodation at the station, his wife /husband is not entitled for the HRA. In pursuance of this note of Internal Audit party the Principal KV-2, Gaya started deduction at the rate of Rs.5000.00 per month from the salary of the applicant. Aggrieved by the aforesaid action the applicant filed a representation to the Additional Commissioner, Kendriya Vidyalaya Sangathan, Patna, Respondent No.3 on 21.7.2005. Since no order has been passed on the aforesaid representation she again approached Respondent No.3 and filed reminder on 24.9.2005, but no action has been taken by the Respondent No.3. The applicant challenged the order of recovery on the ground that before making recovery, opportunity to put her case before the appropriate authority by her has been denied. This action is arbitrary and malacious. Counsel for the applicant has contended that the deduction is being made for Rs.5000.00 per month which is more than 33% of the basic pay which is impermissible. Counsel for the respondents, Shri G.K. Agarwal, submits that the applicant has filed a representation against the aforesaid recovery on 21.7.2005 and he approached this Tribunal before expiry of six months. Hence this petition is premature and liable to be dismissed.

2. Before coming to the Tribunal the applicant has filed a representation before the respondents on 21.7.2005 which is still pending. Counsel for applicant submits that a direction be issued to the respondents to decide his representation within stipulated period. In view of the submissions made by the counsel for the parties I am of the considered opinion that the present OA can be disposed of at the admission stage itself by giving



direction to the respondents to decide the representation filed by the applicant as contained in Annexure-A-1.

3. Having said so the Respondent No.3 is directed to examine the case of the applicant and pass a speaking and reasoned order after giving personal hearing to the applicant in accordance with law. This exercise should be completed within a period of one month from the date of receipt of a copy of this order. No recovery shall be made from the pay of the applicant from the month of December, 2005 till disposal of the representation.


(Sadhna Srivastava)
Member (J)

skS