

REGISTERED

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

APPLICATION No. 26/87(F)

(WP.NO.)

COMMERCIAL COMPLEX, (BDA)
INDIRANAGAR,
BANGALORE-560 038.

DATED: 27/7/87

APPLICANT

Vs

RESPONDENTS

Shri G. Banuprasad

The Chief Supdt, CTO, B'lore & 2 Ors

TO

1. Shri G. Banuprasad
Assistant Superintendent (TT)
Telegraph Office
R.T. Nagar
Bangalore - 560 032
2. Shri A.C. Rajasekhar
Advocate
No. 82/B, 1st Cross, 12th Main Road
Banashankari 1st Stage
Bangalore - 560 050
3. The Chief Superintendent
Central Telegraph Office
Govt. of India
Bangalore - 560 001

4. The General Manager
Telecommunications
Karnataka Circle
Bangalore - 560 009
5. The Director General
Directorate of Telecommunications
Govt. of India
New Delhi - 110 001
6. Shri M. Vasudeva Rao
Central Govt. Stng Counsel
High Court Buildings
Bangalore - 560 001

SUBJECT: SENDING COPIES OF ORDER PASSED BY THE
BENCH IN APPLICATION NO. 26/87(F)

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Please find enclosed herewith the copy of the Order
passed by this Tribunal in the above said Application on

16-7-87

RECEIVED

ENCL: As above.

DEPUTY REGISTRAR
(JUDICIAL)

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE

DATED THIS THE 16th DAY OF JULY, 1987

Present : Hon'ble Sri Ch.Ramakrishna Rao

Member (J)

Hon'ble Sri P.Srinivasan

Member (A)

APPLICATION No. 26/87(F)

G.Banuprasad,
C/o Sri A.C.Rajasekhar, Advocate,
82/B, 1st Cross, 12th Main,
BSK 1st Stage,
Bangalore - 50.

...

Applicant

(Sri A.C.Rajasekhar

... Advocate)

Vs.

1. The Chief Superintendent,
Central Telegraph Office,
Govt. of India,
Bangalore - 1.

2. The General Manager,
Telecommunication,
Karnataka Circle,
Bangalore - 9.

3. Director General,
Directorate of Telecommunication,
Govt. of India,
New Delhi - 1.

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Respondents

(Sri M.Vasudeva Rao

... Advocate)

This application has come up before the court today.

Hon'ble Sri P.Srinivasan, Member(A) made the following :

ORDER

This is an application under Section 19 of the Administrative Tribunals Act, 1985.

2. During the period from 17.11.1982 to 4.12.1986, the applicant was working as Assistant Superintendent, Telegraph Traffic, in the Divisional Telegraph Office, Jayanagar and R.T.Nagar. The incumbent of the post of Assistant Superintendent (TT) was entitled to rent free accommodation as per instructions of the Post and Telegraph Department


P.f. - 42

(Annexure A). By an Office Memorandum dated 3.9.1974(Annexure C), the Government of India issued the following instructions by which persons entitled to rent free accommodation, but ~~were~~ ^H ^H not being provided with such accommodation, were to be given compensation in lieu of rent free accommodation. The relevant paragraphs are :

- (1) Employees who are working in cities classified for the purpose of grant of house rent allowance in accordance with this Ministry's O.M.Ni.F.2 (37)-EII(B)/64 dated 27.11.1965 as amended/modified from time to time including the modifications made by this Ministry's O.M.No.2(55)-EII (B)/72 dated 6.6.1974, will be entitled to the amount charged as licence fee for government accommodation from employees similarly placed but not entitled to rent free quarters and in addition, to the house rent allowance admissible to corresponding employees in terms of the aforesaid orders. The total amount will, however, be limited to the rent actually paid by such employees.

NOTE: For the purpose of the above orders the amount charged as licence fee for government accommodation will be taken as 10% of the monthly emoluments (7½ in the case of employees drawing pay below Rs.300) as laid down in the orders regarding recovery of licence fee.

- (2) the employees referred to in para 1(i) will not be required to produce rent receipt in support of their claim for compensation, if the amount claimed is equal either to the amount charged as licence fee for Government accommodation from employees similarly placed but not entitled to rent free quarters or to the amount admissible as house rent allowance if their pay does not exceed Rs.750/-. They will have to produce rent receipt if the amount claimed is more than the above amounts or if their pay exceeds Rs.750/-. In such cases production and verification of rent receipts shall be compulsory.



3. The applicant was not given rent free accommodation as Assistant Superintendent (TT) between 17.11.1982 to 4.12.1986. He claimed compensation in lieu of rent free accommodation in accordance with the terms of the Office Memorandum extracted above, but this was not given to him because his wife who was also an employee of the same department had been provided Government accommodation on payment of 10% of her pay (Annexure E) as Licence fee. It is this refusal to grant him such compensation that the applicant is challenging in this application.

[Handwritten signature]

4. Sri A.C.Rajasechar, learned counsel for the applicant, contends that the applicant is entitled to rent free accommodation and not having been given one, was entitled to the amount charged as licence fee for Government accommodation from employees similarly placed but not entitled to rent free accommodation. His wife was a "similarly placed" employee like him but not entitled to rent free quarters. She had to pay Rs.65/- per month for the accommodation allotted to her. In terms of O.M. dated 3.9.1974 extracted above, the applicant was entitled to a payment of Rs.65/- per month representing licence fee charged from a "similarly placed" employee without being required to produce a rent receipt. He had not claimed house rent allowance over and above this, as he could have as per the aforementioned OM. Since his wife was in occupation of Government accommodation, the Government was saving a further amount, which would otherwise have been payable to her as House Rent Allowance. In view of this, the applicant should have been given Rs.65/- per month, the rent actually paid by his wife, for the period 17.11.1982 to 4.12.1986.

5. Sri M.Vasudeva Rao, learned counsel for the respondents, refuting the contention of Sri Rajasekhar, pointed out that in the same Government Office Memorandum extracted above, the compensation payable to a person entitled to rent free accommodation and not provided with one, shall be limited to the rent actually paid by such employee. This meant that if the employee paid no rent and lived with his wife who paid rent for the Government accommodation provided to her, he was not entitled ~~either to~~^{to} any compensation as the rent actually paid by him was nil.

6. We have considered the rival contentions carefully. We are inclined to agree with the interpretation placed by Sri Vasudeva Rao on the terms from the Office Memorandum dated 3.9.1974 extracted above. It appeals to us because it is also equitable. We are of the view therefore that according to the O.M. of the Government, if the spouse of a Government servant entitled to rent free accommodation has been given Government accommodation, and the Government servant lives with such

