

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR

Date of order: 12.1.2000

OA No.385/1993

1. Bhartiya Postal Employees Union Class III Ajmer Divisional Branch, Ajmer through President Tikam Sakhrani r/o 8A/33 Subhash Colony, Ajmer.
2. Chandra Kant Sharma working as Sub Postmaster, G.C. Road Post Office, Ajmer.
3. Bhagwan Das Najkani working as Sub Postmaster, Ganj Post Office, Ajmer.

.. Applicants

Versus

1. Union of India through the Secretary to the Government of India, Department of Posts, Ministry of Communications, New Delhi - 110 001.
2. Postmaster General, Rajasthan Eastern Region, Ajmer.
3. Director Postal Services, Rajasthan Eastern Region, Ajmer.
4. Senior Superintendent of Post Offices, Ajmer Postal Division, Ajmer.

.. Respondents

Mr. K.L.Thawani, counsel for the applicants

Mr. U.D.Sharma, counsel for the respondents

CORAM:

Hon'ble Mr. S.K.Agarwal, Judicial Member

Hon'ble Mr. N.P.Nawani, Administrative Member

ORDER

Hon'ble Mr. N.P.Nawani, Administrative Member

In this application under Section 19 of the Administrative Tribunals Act, 1985, the applicants have prayed that the impugned order dated 23.6.1993 be quashed as being violative of rules of allotment of quarters and FR 45-A and SR

311.

(W)

2. The facts of the case as stated by the applicants are that the applicant No.1 is a recognised trade union and Shri Tikam Sakhrai being the President of the said Union is duly authorised to file and prosecute this application whereas applicant Nos. 2 and 3 are working as Sub Post Masters and are the affected employees; that respondent No.3 has abruptly and arbitrarily made allotment of quarters vide impugned order Ann.A1; that the applicants have never applied for allotment of quarters; that rules for allotment are laid down in DG P&T letter dated 25.6.1966 (Ann.A2); that allotment of quarters on the basis of licence fee/rent free are laid down in SR 311 to 316 and FR 45-A; that the quarters have been allotted by name and, therefore, these are not earmarked quarters to the post of Sub Post Masters (for short, SPM); that applicants had been holding permanent posting as SPM but can be transferred and posted as Postal Assistants, Office Assistants and Assistant Post Masters and can, therefore, be allotted quarters if applied for in the general pool; that there are 3 wings of Postal Department viz. Post Office, R.M.S. and Administrative office and quarters are to be allotted to each wing according to their staff strength; that in this case no quota system has been adopted and all the quarters have been allotted to the applicants and that almost all the officials listed in Ann.A1 have their own parental houses or self constructed houses by obtaining House Building Advances.

3. The case of the applicants is primarily based on contentions that relevant rules have not been followed in allotment of quarters as per the impugned order dated 23.6.1993 and it has not been in terms of Rules of Allocation

Anu

(22)

and Allotment of Quarters issued vide DG P&T letter dated 25.6.1966 (for short, allotment rules). It has been contended that under SR 311 a quarter has to be declared attached to a post when the incumbent of the post is required to live in the Government premises and the respondents have not issued any order to declare particular quarter attached to the post with free light, water and sanitary facilities as required under FR 45 A (6). Further the duty hours in all the Sub Post Offices mentioned in Ann. Al are almost day duties i.e. 0930 to 1730 hours and living in the premises by the SPM is not warranted and the rules of the department and principles of natural justice require that one who has got his own house should not be allotted government accommodation. The quarter should have been allotted on the principle of seniority as has been decided on 29.8.1991 by the Jodhpur Bench of this Tribunal in OA No. 686 of 1988 in Guman Mal Vs. Union of India. Some other factors like the accommodation being at corner of the Ajmer city near a small barren hill, absence of proper conveyance for the applicants and their families, and unhygienic and unsafe surroundings have also been mentioned by the applicants. It has also been stated that arbitrary allotment of quarters to applicants would result in a financial loss of around 600/- per month to each applicant.

4. In their reply the respondents have contested the averments made by the applicants and have stated that the applicant Nos. 2 and 3 are working as Sub Postmasters and according to para 3(a) of Appendix (11) of Manual of Appointment and Allowances (3rd Edition) and Rule 37 of the P&T Manual, Vol.(VI), rent free quarters are allowed to Post Masters and such other establishments as it may be necessary for the proper discharge of work of the Post Offices to have

(22)

Chunh

63

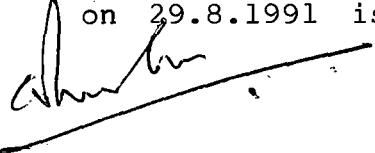
G.V.

residence within the premises. Further, Presidential order has been issued by the Director General, P&T, New Delhi that there is no objection to provide rent free quarters to Post Masters and Sub-Post Masters away from the Post Offices provided that it is ensured that the distance of the quarters from the Post Offices do not prove to be detrimental to the efficient discharge of their duties and that in the event of an emergency, the Post Masters are able to reach the Post Offices within an hour. In the aforesaid order, it has been further stated that House Rent Allowance in lieu of rent free quarters may be granted to Post Masters subject to the condition that the Post Master has his residence at a reasonable distance from the Post Office so that he can reach the Post Office within an hour in the event of emergency. It has, therefore, been contended that in the context of the provisions of the order dated 3.5.1972, when no residential quarter is attached and is situated within the premises of the Post Office, it is legally permissible for the department to provide rent free accommodation to the Post Masters within a reasonable distance from the Post Office premises which may be accessible within a period of one hour. It has also been submitted that the allotment rules (Ann.A2) referred to by the applicants are not relevant and are not applicable in the case of Post Masters and such establishments which are allowed rent free accommodation for the efficient discharge of their functions and are dated 3.5.1972, as referred to above, regulates the allotment of rent free quarters to such Post Masters. The applicants can, therefore, be allowed the benefit of residing in their houses only when rent free quarters are not available for allotment to them within a reasonable distance from the Post Office and it is not necessary that specific quarters should be earmarked for the various Post Offices and since all these quarters are situated in the Postal Colony itself such

Chun

(94)

quarters can be allotted to the Post Masters and others as per availability. The quota system is not applicable for allotment of rent free accommodation and in any case the quarters being surplus than the demand, the question of having quota to different wings does not arise. As far as the question of transferability of the applicants are concerned, it has been clarified that in case of transfer to a post which is allowed rent free accommodation, the applicants will be entitled to retain the said rent free quarters but on transfer to other posts they are at liberty to vacate the said rent free quarter and either obtain allotment or claim HRA by residing in their own houses/ rented accommodation. The respondents have also denied that the Postal Colony in Ajmer is situated in a corner of the city with disadvantages as mentioned by the applicants and have stated that it is situated within Ajmer Municipality and its distance from Post Offices is not more than 5 Kms. It is protected properly by a boundary wall and connected by all modes of transport. As regards the contention of the applicant that living in premises is not warranted because of duty hours from 0930-1730, it has been stated that earlier the Post Masters were required to sleep in the office premises where rent free quarter is situated in the same premises. By virtue of the provisions of letter dated 3.5.1972, this condition has been dispensed with by providing that the distance of the quarter should not prove detrimental to the efficient discharge of his duties and in the event of emergency the Post Master should be able to reach the Post Office within about one hour. The principles of natural justice are not applicable when rent free accommodation are compulsorily provided for the efficient discharge of their duties. It has also been stated that the decision given by the Jodhpur Bench of this Tribunal on 29.8.1991 is not applicable in the instant case as the



provisions of letter dated 3.5.1972 had not been considered while deciding the said OA and the applicant therein was not entitled for rent free quarters but had been allotted the Government quarter unilaterally by the Department. The respondents have, therefore, contended that in view of the position as explained hereinabove, the averments made by the applicants about alleged financial loss of about 600/- per month is untenable and devoid of any merit as they have no right of refusing the rent free quarter and claim HRA and, on the other hand, the Government had to incur huge expenditure in constructing quarters and it cannot put to double loss, by keeping the quarters vacant and by paying HRA and, therefore, the applicants are not entitled to any relief and the application deserves to be dismissed.

5. We have heard the learned counsel for the parties and have also gone through the material on record.

6. On a careful consideration of the rival contentions, we feel that Sub Post Masters can be considered as a special class within the Postal Department in view of the fact that they are custodians of substantial amount of cash and valuable money related documents like stamps, postal orders etc. The Government has, therefore, in their wisdom provided for rent free accommodation being made available to the Post Masters in general, including the SPMs so that in case of emergency they are able to reach their respective Post Offices with no loss of time and in any case within one hour of the information received by them. We, therefore, find no fault with the Presidential order communicated by DG, P&T letter dated 3.5.1972 (Ann.R1) under which provision of rent free quarters or grant of HRA in lieu has been made to departmental Post

Chunilal

Masters/Sub Postmasters/ Branch Postmasters. It has been clearly mentioned in that letter that according to para 3(a) of Appendix 11 of the Manual of Appointments and Allowances (3rd Edition) and rule 37 of P&T Manual Vol.VI, rent free quarters are allowed to Post Masters and such other establishments as it may be necessary for the proper discharge of the work of Post Offices to have residence on the premises. All the Postmasters are required to sleep on the office premises as stated by the respondents. The condition of sleeping in the premises has been dispensed with and the matter was, therefore, reviewed in consultation with the Ministry of Finance and Accountant General, P&T and the "President was pleased to decide that there was no objection to provide rent free quarters to Post Masters away from the Post Office provided that it is ensured that the distance of the quarters from the Post Office concerned does not prove detrimental to the efficient discharge of his duties and that in the event of emergency the Post Master is able to reach the Post Office within an hour". Against the background of this presidential order of 3.5.1972, we feel that normal rules of allocation of quarters as contained in DG P&T letter dated 25.6.1966 and on which the applicants have based their case are not applicable for the category of Post Masters and in any case the said letter of 25.6.1966 has not mentioned anywhere that it supersedes the letter dated 3.5.1972. On the other hand, the letter mentions that necessary orders amending the relevant provisions in the Manual of Appointments and Allowances and P&T Manual Vol.VI will be issued separately. Therefore, we come to the conclusion that the allotment of quarters made through the impugned order dated 23.6.1993 (Ann.A1) is proper and no interference is required from the Tribunal. Consequently, the other averments regarding

(1) 35

applicability of SRs 311-316 and FR 45 also do not stand.

7. Some contentions were also raised by both the applicants and respondents which are not strictly within the framework of rules, regulations and instructions. The applicants have stated that they have their own houses at Ajmer constructed by obtaining House Building Advances and the compulsory allotment of quarters is forcing them to sustain a loss of around Rs. 600/- per month. On the other hand, the respondents have stated that huge amount of public funds has been spent in building the quarters and when quarters are available these have to be allotted to those who are entitled to rent free accommodation otherwise not only the public funds get wasted but there will be further drain from the public exchequer on account of payment of House Rent Allowance to those who are required to live in the rent free accommodation for reasons of efficiency in public services. While we have already come to a conclusion with regard to the legal points involved in this controversy in the preceding paragraph, we would like the respondent No.2 to consider whether the two applicants in this Original Application, if they have availed of House Building Advance, can be shifted to such equivalent posts like Postal Assistant, Office Assistant and Assistant Post Master for which there is no provisions for rent free accommodation so that they do not have to be burdened with the recovery of House Building Advance alongwith interest from their salary every month.

8. We, therefore, dispose of this Original Application with a direction to respondent No.2 to consider shifting the two applicants in this Original Application to such equivalent posts, the incumbents of which are not required to stay in rent free quarters, provided that they have obtained House

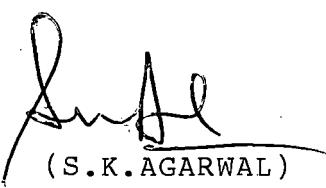
Chandras

Building Advance for constructing of their own houses at Ajmer.

9. Parties to bear their own costs.


(N.P. NAWANI)

Adm. Member


(S.K. AGARWAL)

Judl. Member