

(19)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR

Date of Order : 11.7.2000

OA 134/98

Maliram Saini S/o Gigaram aged about 45 years and resident of Maonda R.S. District Sikar and working as Sub-Post Master Maonda R.S. District Sikar (Raj.)

.... Applicant

Versus

1. Union of India & Others through Secretary to the Govt. of India, Department of Posts, Ministry of Communication, New Delhi- 110001.
2. Member (P), Postal Services Board, Dak Bhawan, Sansad Marg, New Delhi- 110001.
3. Director Postal Services, Rajasthan Western Region, Jodhpur.
4. Superintendent of Post Offices, Sikar Division, Sikar.

.... Respondents

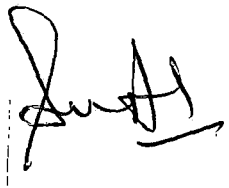
Mr. K.L. Thawani, Counsel for the applicant.  
Mr. Hemant Gupta, Proxy counsel for  
Mr. M. Rafiq, Counsel for the respondents.

CORAM

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

ORDER

(PER HON'BLE MR. S.K. AGARWAL, MEMBER (JUDICIAL))

 In this Original Application filed u/s 19 of the Administrative Tribunals Act, applicant makes a prayer to quash and set aside the orders at Annexures A-1 and A-2 and to direct the respondents to pay House Rent Allowance to the applicant for the period from 18.12.89 to 26.12.92 with interest @ 12% per annum.

...2/-

2. The facts of the case, as stated by the applicant, are that applicant was posted as Sub-Postmaster, Maonda R.S. District Sikar on 18.12.89. It is stated that applicant after joining as Sub Postmaster Maonda R.S. requested S.P.O. Sikar to sanction House Rent Allowance but S.P.O. Sikar did not sanction the allowance although he himself visited to Maonda R.S. on 17.3.90 and noticed that there was no residence for S.P.M. It is stated that one room in possession of landlord was lying vacant and S.P.O. Sikar ordered the applicant orally to lock that room. Applicant did so but the room was unlocked by the landlord. The matter was reported to SPO, Sikar, who directed to file F.I.R. to the Police. Ultimately Police filed final report. It is stated that applicant claims House Rent Allowance from 18.12.89 to 26.12.92 but instead of sanctioning House Rent Allowance, a charge sheet was issued to the applicant and a penalty of reduction of pay by three stages for two years without cumulative effect by the S.P.O. Sikar and on appeal, the penalty was modified by the Director, Postal Services, Jodhpur to the extent to reduction of pay by one stage for two years with cumulative effect. It is stated that House Rent Allowance was sanctioned to successor of the applicant w.e.f. 26.12.92 but applicant was not sanctioned House Rent Allowance. The applicant also made petition to Member (P), Postal Services Board, New Delhi but the same was also dismissed. It is stated that there was no residential accommodation available for B.P.M. Maonda R.S. The applicant lived in a separately provided rented house. Therefore, he was entitled to House Rent Allowance in lieu of rent paid for accommodation facility. It is also stated that action of Disciplinary Authority and for initiating disciplinary proceedings and not to pay House Rent Allowance was arbitrary and malafide exercise and Appellate Authority has also not cared to probe into the case and rejected the appeal. In the same way Review Authority also dismissed the petition on account of delay. Although there is no limitation provided for this purpose. Therefore, applicant filed this Original Application for the relief, as mentioned above.

3. Reply was filed. In the reply, it is stated that rent free accommodation was provided to Sub-postmaster attached to the Post Office and prior to applicant, Shri Vasu Dev worked as S.P.M. Maonda who was using the same accommodation for residence and handed over the same to the applicant but since the applicant's residence was near to Village Maonda, he was not interested to occupy the same. Therefore, applicant

had wilfully surrendered to the landlord and did not utilised for his residence. The applicant is thus not entitled to get House Rent Allowance for the period from 18.12.89 to 26.12.92. It is also stated that claim of the applicant regarding payment of House Rent Allowance for the above period is hopelessly barred by limitation as applicant filed this OA after lapse of more than five years. It is also stated that disciplinary proceedings were initiated against the applicant as per rules after conducting inquiry as per rules. The punishment was imposed on the applicant and Appellate Authority after careful perusal of the appeal disposed of the same by a reasoned and a speaking order and so the petition filed by the applicant was also dismissed because it was filed after lapse of three years. In the end it is stated that applicant is not entitled to House Rent Allowance and he is not residing in the ~~house~~ rent free accommodation available for the applicant.

4. Heard the learned counsel for the parties and also perused the whole record.

5. As regards orders passed by Disciplinary Authority and Appellate & Revision Authority, I do not find any infirmity in orders. Applicant has not alleged that there has been any violation of any rule/procedure/principle of natural justice. Appellate Authority also passed a reasoned and a speaking order and Member (P), Postal Services Board also disposed of the revision as it was filed after unreasonable delay i.e. more than three years. Therefore, in my considered view, the orders at Annexures A-1 and A-2 do not call for interference by this Tribunal.

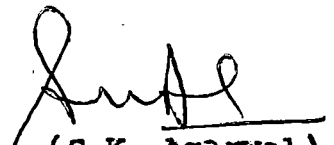
6. The learned counsel for the applicant vehemently argued that applicant is entitled to House Rent Allowance as no rent free accommodation was provided to the applicant. On the other hand, learned counsel for the respondents has argued that applicant is not entitled to House Rent Allowance as he did not reside in the residential quarter and claim of the applicant is belated. On the perusal of the averments made by the parties, it appears that applicant was served with memorandum of charge sheet and matter was inquired into and the applicant was held guilty of the charges and order of punishment was passed by

S.P.O. Sikar against the applicant. Applicant filed an appeal which was also rejected. Petition was also filed to Member (P), Postal Services Board, but the same was also dismissed as filed after unreasonable delay.

7. In view of the above, I am of the considered view that claim of the applicant for the period from 18.12.89 to 26.12.92 for which Original Application was filed on 16.4.92 is hopelessly barred by limitation. No delay of condonation application was filed by the applicant. No explanation of the delay has been given by the applicant before this Tribunal. Therefore, claim of the applicant for House Rent Allowance for the period from 18.12.89 to 26.12.92 is barred by limitation. Even on merits, applicant has no case for interference by this Tribunal.

8. I, therefore, find no merit in this Original Application and this Original Application is liable to be dismissed.

9. I, therefore, dismiss this Original Application having no merits. No order as to costs.

  
(S.K. Agarwal)  
Member (J)