

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR

O.A.No.493/2001

Date of order: 23.4.2002

J.P.Mishra, S/o Omkar Mal Mishra, R/o C-216, Hanuman Nagar, Vaishali Nagar, Jaipur.

...Applicant.

Vs.

1. State of Rajasthan through Secretary Home, Jaipur.
2. Secretary, GAD, Jaipur Rajasthan.

...Respondents.

Mr.Amit Mathur : Counsel for applicant

Mr.Harsh Vardhan Nandwana : Counsel for respondents.

CORAM:

Hon'ble Mr.A.P.Nagrath, Administrative Member.

Hon'ble Mr.J.K.Kaushik, Judicial Member.

PER HON'BLE MR A.P.NAGRATH, ADMINISTRATIVE MEMBER.

In this Application under Sec.19 of the ATs Act, 1985, the applicant seeks the following reliefs:

"Order dated 26.7.2001 and cancellation order dt. ..../10/96 may kindly be quashed and set aside.

Direction may be issued to R.1 to regularise the calls made in excess and further issue direction to Res.No.2 to deposit the amount of telephone bill of applicants phone."

2. This case is arising out of excess billing against residential telephone No.312088 installed at the residence of the applicant and the excess billing period are 15.10.95 to 15.12.95 and 16.12.95 to 15.2.96. The total excess calls billed are 20172.

3. We have heard the learned counsel for the parties.


4. The learned counsel for the applicant submits that the applicant made a detailed representation vide letter

dated 16.12.96 giving reasons for which he was compelled to use the residential telephone. According to the applicant, the excess calls have been made for official purposes.

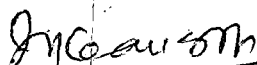
5. The counsel for the respondents has drawn our attention to Schedule-A attached to the O.A, wherein similar excess calls have been regularised by the respondents and no recovery has been made from the applicant and some others. The contention of the learned counsel for the respondents is that such action indicates that the department has taken a fair view in the matter on receipt of satisfactory explanation of the excess calls made, the regularisation has been done. However, in the instant case, according to the learned counsel for the respondents, the applicant has not been able to give satisfactory explanation as to why so many excess calls have been made from his residential telephone. more so, during this period his official telephone was in good working order.

6. On the other hand, the learned counsel for the applicant has also drawn our attention to the averments in the O.A that the applicant has been requesting the department to obtain details from the Telephone Department which would indicate that all the excess calls were made for official purposes but the department is reluctant to call for this information. The counsel for the respondents submits that the onus for proving the calls are official, lies on the applicant and the applicant may obtain, if he so desires, from the Telephone Department the required details.

7. We have considered the rival contentions. We, dispose of this O.A finally at the stage of admission, with the direction to the applicant to make a request to the appropriate authority in the Telephone Department and obtain

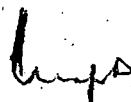


the details of the calls made during the relevant period. He shall submit a representation explaining as to why the necessity arose to make official calls from the residential telephone and to justify the regularisation of excess calls in his favour, within a period of two months from the date of this order. The respondents shall consider the representation and take a decision in the matter within a period of one month from the date of receipt of such representation. The decision so taken by the respondents' department shall be communicated to the applicant within two weeks, thereafter. Till then, the respondents are directed not to make any recovery from the applicant. In case the applicant is still aggrieved by the decision so communicated, he is at liberty to approach the appropriate forum. No costs.



(J.K. Kaushik)

Member (J)



(A.P. Nagrath)

Member (A).