

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No. 689 of 1999

Jabalpur, this the 2nd day of January, 2004

Hon'ble Mr. M.P. Singh, Vice Chairman

Shri Narayandas Gupta  
S/o Late Harprasad Gupta  
Aged 44 years  
R/o Quarter No. 48(Type.III)  
P&T Colony  
Bhadabhada Road  
Bhopal

APPLICANT

(By Advocate - Ku P.L. Shrivastava)

VERSUS

1. Union of India  
Through: Secretary  
Min.Of:Communications  
Sanchar Bhawan  
New Delhi.
2. Chief General Manager  
MP Telecom Circle  
Hoshangabad Road  
Bhopal - 12.
3. Assistant General Manager  
(Operations & Maintenance)  
Office of the Chief General  
Manager Telecom  
Hoshangabad Road  
Bhopal - 12.
4. The General Manager  
Telecommunications,  
CTO Building TT Nagar  
Bhopal.
5. Accounts Officer(Cash)  
Office of the General  
Manager Telecommunications  
CTO Building  
TT Nagar  
Bhopal.

RESPONDENTS

(By Advocate - None)

O R D E R (ORAL)

As this is an old matter of the year 1999, I am disposing of the same in the absence of the learned counsel for the respondents, by invoking the provision of Rule 16 of Central Administrative Tribunal(Procedure) Rules 1987, after perusing the available pleadings and hearing the learned counsel for the applicant.

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2. By filing this OA, the applicant is seeking the relief to quash the recovery, as proposed to be effected from the pay of the applicant and as reflected in the LPC(Annexure-A-18) and declare it as wholly improper, unjustified and mala fide and ab-initio void. Further relief prayed for is that the amount recovered by the respondents, as of date, may be refunded to the applicant with interest at the rate of 21 percent per annum.

3. The brief facts of the case, as stated by the applicant, are that he was functioning as Assistant Accounts Officer in the office of the Chief General Manager, Telecom, MP Circle, Bhopal. He was promoted as Accounts Officer on purely temporary and officiating basis and was posted as Accounts Officer in the office of TDE, Khandwa w.e.f. 18.95 for 65 days. Thereafter he was again transferred and promoted on purely ~~and~~ temporary and officiating basis as Accounts Officer and posted at Itarsi for 115 days. The details of the temporary promotion of the applicant and his transfers are given below (as per para 4.2 of the OA) :-

S.No.	Date of letter	Details of Officiating promotion/reversions	Details of <u>positings</u> From To	Period
1.	01.08.95	Offg promotion in the cadre of A.O	Bhopal Khandwa	65 days
2.	05.09.95	Offg Promotion as A.O	Khandwa Itarsi	115 days
3.	01.03.95	reverted to the Cadre of AAO	At the same place Itarsi	3 days
4.	01.03.96	Offg promotion At as A.O	the same place, Itarsi	179 days
5.	02.08.96	Reverted to lower post as A.A.O	-do-	2 days
6.	06.08.96	Offg promotion as A.O	-do-	88 days
7.	22.10.96	Reverted to lower post as A.A.O	Itarsi Bhopal	45 days

8. I have very carefully considered the submissions made by the learned counsel for the applicant and also perused the reply given by the respondents.

9. It appears from the pleadings that the applicant has been transferred on purely temporary and officiating basis in different spells for short periods, thereafter he has been reverted to his substantive post. This exercise was <sup>DE</sup>being continued by the respondents from the year 1995 to 1999. Therefore, the applicant, who was allotted the Government accommodation at Bhopal had retained the said Government accommodation, during this period.

10. The respondents have issued an order dated 11.2.1999 (Annexure-A-14) whereby the applicant has been promoted as Accounts Officer on regular basis w.e.f 31.12.1998 only. Since the applicant was not promoted on regular basis and he was transferred purely officiating and temporary basis for short spell of time, he <sup>could &</sup>can-not have <sup>been allotted &</sup>retained the Government accommodation at other different places during the period of 1995 to 1999. He has, therefore, retained the Government accommodation, which was allotted to him at Bhopal which appears to be in order. The respondents, therefore, cannot impose the penal rent without issuing the notice and giving an opportunity of hearing to the applicant. Therefore, order of recovery of Rs. 66,308.35 from the applicant's salary at the rate of Rs.3000/- per month as reflected in the LPC issued by the respondents (Annexure-A-18) is wholly illegal and untenable and is not sustainable. The Tribunal vide order dated 16.11.99 has stayed further recovery of penal rent for retaining Government accommodation.

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11. For the reasons stated above, the OA is allowed. The impugned order (LPC) dated 5.8.99 (Annexure-A-18) is hereby quashed and set aside. The interim order passed by the Tribunal dated 16.11.99 is merged with this final order. The respondents are further directed to refund the amount of Rs.4000/- penal rent recovered from the applicant's salary, within a period of 2 months from the date of receipt of a copy of this order. No costs.

*M.P. Singh*  
(M.P. Singh)  
Vice Chairman

पृष्ठकल सं ओ/न्या.....जबलपुर, दि.....  
पत्तिलिपि अर्चो धितः

- (1) सचिव, उच्च न्यायालय डा. एम.एस.एस., जबलपुर  
(2) आदेशक श्री/श्रीमती/कु..... के काउंसल S. Menon, Adv.  
(3) प्रत्यक्षी श्री/श्रीमती/कु..... के काउंसल T. S. Dasgupta, Adv.  
(4) बंदापन, ली.प्र.अ. जबलपुर न्यायाधीश  
सूचना एवं आवश्यक कार्यवाही हेतु

*Prasad*  
12/11/99

SKM

*Issued  
on  
7.1.04*