

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
JAIPUR BENCH, JAIPUR.

Jaipur, the 22 day of July, 2010

ORIGINAL APPLICATION No.434/2008

CORAM :

HON'BLE MR.K.S.SUGATHAN, ADMINISTRATIVE MEMBER

P.R.Lakhara
S/o Shri Dala Ram,
R/o C-123, Vaishali Nagar,
Jaipur.

... Applicant

(By Advocate : Shri P.N.Jatti).

Versus

1. Union of India through
Secretary to the Govt. of India,
Department of Posts,
Dak Bhawan, Sansad Marg,
New Delhi.
2. Chief Post Master General,
Rajasthan Circle,
Jaipur.
3. Post Master General,
Western Region,
Jodhpur.
4. Sr. Superintendent Railway Mail Service,
Jaipur Division,
Jaipur.
5. Superintendent Railway Mail Service,
ST Division,
Jodhpur.

... Respondents

(By Advocate : Shri Gaurav Jain)


ORDER

PER HON'BLE MR.K.S.SUGATHAN

The applicant is aggrieved by the decision of the respondents to recover the House Rent Allowance [HRA] paid to him for the period from 10.3.2006 to 14.10.2006. During the said period he was posted as Superintendent of Railway Mail Service at Jodhpur on adhoc basis. The applicant had claimed HRA as the accommodation earmarked for the post was not in a livable condition. Applicant's representation against the order of recovery of HRA has been rejected by the respondents vide their order dated 12.6.2008 (Ann.A/1), which is under challenge.

2. It is the contention of the applicant that a part of the office building of the SRM Office, which was converted into a Type-V quarter, was not in a usable condition. As the said quarter was not in a usable condition, his predecessor had also not occupied it. Letter written by his predecessor on 13.6.2005 (Ann.A/8) contains the details of repairs to be undertaken to make the accommodation usable. However, these repairs had not been done during his tenure and hence he could not occupy the said quarter.

3. The respondents have contested the OA and filed their reply. It is contended in the reply that the predecessor of the applicant had not occupied the said quarter because the repairs had not been completed. The applicant was posted on 10.3.2006 and he was expected to occupy the attached quarter immediately. The applicant was, therefore, not entitled to get HRA. However, the applicant claimed HRA for which he was not entitled. The representation made by the applicant has been considered and the license fee recovered from him has been refunded. However, the HRA recovered from him cannot be refunded as he was not entitled to draw the HRA. Necessary repairs could have been done even after occupation of the quarter.



4. I have heard learned counsel for the applicant Shri P.N.Jatti and learned counsel for the respondents Shri Gaurav Jain. I have also perused the documents on record carefully. The issue for consideration in this OA is whether action of the respondents in ordering recovery of the HRA paid to the applicant can be legally sustained.

5. It is not disputed by the respondents that a part of the office building which was converted into Type-V quarter for the use of Superintendent Railway Mail Service needed repairs. There is nothing on record to indicate that the required repairs had been carried out during the time when the applicant was holding the post in Jodhpur. On the other hand, perusal of the letter written by the Post Master General, Rajasthan Western Region, Jodhpur, to the Chief Post Master General, Rajasthan Circle, Jaipur, on 11.12.2006 (Ann.A/10), shows that the available accommodation is not practicable to be classed as a Type-V quarter. Following extract from the said letter is relevant (Ann.A/10) :

"3. . There is no kitchen with these rooms which are at different levels. For reaching the other room one has to use staircase. Closed verandah which has been presumed as kitchen has no proper doors. Total area of the different portion is 593 Sq.Ft. Area wise it is equivalent to an area of Type 'C' quarter but in view of the shortcomings as mentioned it is not a suitable accommodation for a residential quarter.

4. Earlier, when the S.R.M office was functioning in the departmental building of Jodhpur H.P.O. two rooms of ground floor of this building were also included in the quarter. But now, SRM Office is occupying four rooms of the ground floor and one room is housing IRM's office. As such, no space can now be spared at ground floor for residential purpose. Record of HRO, Jodhpur is kept at the first floor of the building.

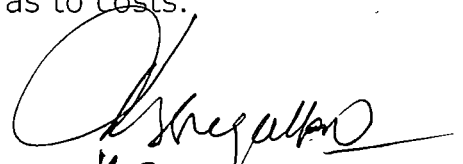
5. P.M.G. (WR) has visited the site and observed that the accommodation available is not practicable to be classed as a Type V quarter.

6. It is therefore proposed to convert the said quarter into official accommodation."

6. The aforesaid letter dated 11.12.2006 (Ann.A/10) was written nearly two months after the applicant was transferred out of Jodhpur. That would show that during the stay of the applicant in Jodhpur for about seven months, required repairs to the quarter had not been done. I am not convinced by the argument of the respondents that the applicant should have occupied the quarter and the repairs could have been done after the occupation in due course. It is the responsibility of the respondents to get the repairs done before making the allotment. If it is not possible to get the repairs done for whatever reasons, there can be no justification to deprive the officers from getting HRA for staying in a private accommodation. The respondents have not cited any rule to show that employees can be forced to accept accommodation which is less than their entitlement and which is not in a livable condition.

7. I am, therefore, of the considered opinion that action of the respondents in recovering the HRA paid to the applicant during the period in which he was not in occupation of the accommodation is arbitrary and illegal.

8. For the reasons stated above, this OA is allowed. The respondents are directed to refund the HRA recovered from the applicant within a period of three months from the date of receipt of a copy of this order. No order as to costs.


(K.S. SUGATHAN)
MEMBER (A)

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