

CENTRAL ADMINISTRATIVE TRIBUNAL  
JAIPUR BENCH, JAIPUR

**ORDERS OF THE BENCH**

**Date of Order: 08.01.2014**

OA No. 641/2011

Mr. P.N. Jatti, proxy counsel for  
Mr. Sorabh Purohit, counsel for applicant.  
Mr. Mukesh Agarwal, counsel for respondents.

At the request of learned proxy counsel for Mr. Sorabh Purohit, counsel for applicant, put up the matter on 10.01.2014 for hearing.

*Anil Kumar*  
(ANIL KUMAR)  
ADMINISTRATIVE MEMBER

Kumawat

10.01.2014

OA No. 641/2011

Mr. P.N. Jatti, proxy counsel for  
Mr. Sorabh Purohit, counsel for applicant  
Mr. Mukesh Agarwal, counsel for respondents

Heard learned Counsel for the  
parties.

O.A. is disposed of by a  
separate order on the separate  
Sheets for the reasons recorded  
therein.

*Anil Kumar*  
[ Anil Kumar ]  
Member (A)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
JAIPUR BENCH, JAIPUR.

**ORIGINAL APPLICATION NO. 641/2011**

Jaipur, the 10<sup>th</sup> day of January, 2014

**CORAM :**

**HON'BLE MR.ANIL KUMAR, ADMINISITRATIVE MEMBER**

Nanak Ram M. Ram Dasani son of Shri Hemu Mal Ram Dasni, aged about 63 years, resident of House No. 118, DC-V, Apna Ghar, Adipur (Kattch), Gujarat.

... Applicant

(By Advocate: Mr. P.N. Jatti proxy to Mr. Sorabh Purohit)

Versus

1. Union of India through its Secretary, Ministry of Communication, Department of Posts, Sanchar Bhawan, New Delhi.
2. Post Master General, Southern Region, Ajmer.
3. Senior Superintendent of Post Offices, Beawar Division, Beawar.

... Respondents

(By Advocate: Mr. Mukesh Agarwal)

**ORDER (ORAL)**

The applicant has filed this OA praying for the following reliefs:-

- "(i) That by appropriate order, direction, instructions, the reply dated 29.06.2011 (Annexure A/1) be quashed and set aside.
- (ii) That by appropriate orders, directions, instructions the respondents be directed to refund the illegally deducted amount of Rs.37000/- from gratuity amount.
- (iii) That by appropriate orders, directions, instructions, respondents be directed to pay the interest @ 18% per annum to the applicant on the illegally deducted amount w.e.f. the date it became due till the payment is made to him.
- (iv) Any other relief which the Hon'ble Tribunal thinks just and proper in the circumstances of the case in favour of the humble applicant may also be allowed.
- (v) Cost of the OA be awarded to humble applicant.

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2. The brief facts of the case, as stated by the learned counsel for the applicant, are that vide order dated 26.02.2008, the applicant was transferred from Nasirabad to Ajmer on promotion. He was in a possession of a Government quarter at Nasirabad.

3. Since the retirement of the applicant was due in December, 2008, the applicant had planned to lead his post retiral life in Gujarat as such he wanted to shift his family in Gujarat and he was looking for a suitable residence there. Apart from that, health condition of the wife of the applicant was also not good. Therefore, he retained the house at Nasirabad upto 25.11.2008 i.e. actual date of shifting of the family of the applicant to Gujarat.

4. That on 23.04.2008, the applicant moved an application for retention of the quarter beyond the prescribed two months period to the Post Master General, Ajmer, his controlling officer, through Senior Post Master, Ajmer, who forwarded the same to the Superintendent of Post Offices, Beawar who was the controlling authority of the Nasirabad. The Superintendent of Post Offices, Beawar was required to verify and forward the same to the PMG, Ajmer for necessary approval. Perhaps his application was not forwarded to the Post Master General for taking a decision on his application.

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5. The learned counsel for the applicant submitted that he was under impression that his application would be allowed, therefore, he deposited twice of the normal license fee from time to time, as was required.

6. The learned counsel for the applicant further submitted that till December, 2008, he did not receive any communication from the respondents regarding cancellation of allotment of the quarter. On the contrary, the applicant received a letter on 03.12.2008 from the Superintendent of Post Offices wherein the applicant was directed to send fresh proposal for necessary action to which the applicant again sent duly filled fresh proposal.

7. It appears that the respondents did not forward the application of the applicant to the PMG, Ajmer for necessary approval and on account of retirement of the applicant in December, 2008, they have started recovery from the salary of the applicant from September, 2008. His legal notice sent through his Counsel was also rejected by the respondents.

8. The respondents have recovered an amount of Rs.37,000/- contrary to the provisions of Fundamental Rules and Supplementary Rules and in the instructions issued under these Rules. Apart from that the respondents before making the recovery have not followed the procedure prescribed under the Rules. Therefore, the action of the respondents in recovering the

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amount from the gratuity is arbitrary, illegal and deserves to be quashed and set aside.

9. The learned counsel for the applicant further submitted that the applicant's request for extension of retention of the quarter has not yet been rejected by the competent authority. Therefore, the action of recovery from the applicant is per se illegal. Therefore, the OA be allowed and the amount recovered from the applicant be refunded to the applicant.

10. On the other hand, the learned counsel for the respondents submitted that the applicant did not submit the application in the proper form. The applicant had to apply to the Post Master General, Ajmer. The applicant was informed on 30.04.2008 that, he will have to deposit double the license fee as per the Rules, if he wanted to retain the quarter beyond the period of two months and that he has to apply to the Post Master General, Ajmer, his competent authority to take a decision. He was supplied a copy of the application form but he did not fill up the form properly. In the meantime, Superintendent of Post Office vide letter dated 13.08.2008 informed the Senior Post Master, Ajmer that the applicant has not vacated the quarter till date and hence recovery may be effected from the applicant as per Rules.

11. Subsequently, the applicant further request for extension of retention of quarter vide his letter dated 18.08.2008 informing

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thereby that he will vacate the quarter on 18.10.2008. The applicant was again advised to obtain permission from the competent authority or vacate the quarter else recovery of damage rent will be made from him. The Superintendent of Post Offices, Beawar vide letter dated 19.11.2008 issued the orders for recovery of damage rent from the applicant for the period of retention of the quarter by the applicant without prior permission of the competent authority.

12. Thereafter the applicant vacated the quarter on 24.11.2008 knowing that he was at fault having retained the quarter without prior permission of the competent authority and the order dated 19.11.2008 had been issued against him for recovery of rent on damage rate (Annexure R/9).

13. The applicant subsequently submitted a form dated 11.12.2008 for retention of the said quarter but on verification it was found that the applicant has neither mentioned any reason for the retention of the quarter nor has paid double the license fee in advance for the period for which the applicant wanted to retain the quarter. Moreover, prior permission of the competent authority for the retention of the quarter was never accorded to the applicant. Therefore, the action of the respondents is legal and according to the provisions of the rules on the subject and hence the present OA has no merit and it should be dismissed with costs.

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14. Heard the learned counsel for the parties and perused the documents on record. From the perusal of the record, it appears that the applicant applied for the retention of the quarter at Nasirabad beyond a period of two months from the date of his transfer through proper channel. But his request was never forwarded to the Post Master General, Ajmer, who was the competent authority to take a decision in this matter. The learned counsel for the respondents also could not verify the fact that the request of the applicant for the extension of retention of the quarter was rejected by the Post Master General. His plea was that the applicant should approach the Post Master General, for permission. It was the duty of the applicant to obtain permission from the Post Master General.

15. I am not inclined to agree with these averments of the learned counsel for the respondents because the applicant being an employee could have applied only through proper channel. It is not disputed that the applicant submitted an application for the extension of the quarter beyond the period of two months from the date of his transfer. Government of India's order, which has been annexed by the respondents at Annexure R/13, provide that an employee can retain a Government accommodation for a period of two months after his transfer on payment of normal rent. The Chief Post Master General/Post Master(s) are competent to allow further retention in special circumstances viz. children's education, medical grounds etc. where the competent authority feels that the family of the Government servant may

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suffer hardship in the event of vacation of quarter upto a certain specified period and in case of transfer further period of six months can be allowed on the payment of double the normal license fee. Vide order dated 06.05.2003 (Annexure R/12), it has been provided that the allottees of Government residential accommodation from postal pool on transfer from one station to another may be further permitted by Head of Circles to continue to retain the accommodation even beyond the maximum permissible period of retention i.e. 8 months, if the occupants so desire and there are no takers of staff quarters, subject to the certain conditions given in the letter.

16. From the perusal of record, it appears that PMG Ajmer, competent authority in this case, has not taken any decision in this case. In fact the case of the applicant was not forwarded to the competent authority for his decision. The applicant has since retired, therefore, the applicant may file representation directly to the Post Master General, Southern Region, Ajmer for giving his permission ex-post facto. The applicant may state the reasons as to why he wanted to retain the quarter beyond the prescribed period of two months. In case the applicant makes such a representation to respondent no. 2 then it would be decided by the respondent no. 2 expeditiously and in accordance with the provisions of law by a speaking and reasoned order but in any case not later than a period of three months. While deciding the representation of the applicant, the respondent no. 2 shall keep in mind that the applicant was transferred from

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Nasirabad to Ajmer on promotion on 26.02.2008 and he was due to retire in the same year i.e. on 31.12.2008. Therefore, the applicant would have found it more convenient to shift his family once at the fag end of his carrier.

17. With these directions, the OA is disposed of with no order as to costs.

*Anil Kumar*  
(Anil Kumar)  
Member (A)

AHQ