

**CENTRAL ADMINISTRATIVE TRIBUNAL
CHANDIGARH BENCH**

(orders reserved on 23.7.2014).

O.A.NO. 060/00006/2014 Date of order: 31.07.2014

Coram: **Hon'ble Mr. Sanjeev Kaushik, Member (J)**
Hon'ble Mr. Uday Kumar Varma, Member (A).

N.K.Bhalla s/o Sh. A.P.Bhalla, resident of # 345, MDC Sec. 4, Panchkula (Haryana), recently retired as Deputy Commissioner from Navodaya Vidalaya Samiti, an autonomous body of the Min. of HRD Govt. of India, New Delhi.

.....Applicant.

(Applicant in person.)

Versus

1. The Commissioner, NVS, B-15, Sec. 62, Institutional Area, NOIDA (UP).
2. The Deputy Commissioner, NVS, Regional Office Bay No.26-27, Sector 31-A, Chandigarh-160030.

...Respondents

(By Advocate: Mr. D.R.Sharma).

ORDER

Hon'ble Mr. Uday Kumar Varma, Member (A):

Applicant has filed the instant OA praying for the following relief:-

"i) That impugned Audit report dated .3.2013 (Annexure A-3), calculation sheet dated 08.08.2013(Annexure A-7), order dated 10.9.13, rejecting the representation (Annexure A06) order dated 19.5.2010(Annexure A-2) to the limited extent making it applicable to the headquarter only and final order dated 12.11.2013 (Annexure A-8) deducting an amount of Rs.18, 196/- illegally from the retirement benefits of the applicant be quashed and set aside;

ii) That respondents be directed to release an amount of Rs.18, 196/- illegally deducted from the retirement benefits of the applicant along with interest at 9.5% up to actual date of releasing the amount."

2. Facts of the case are that the applicant joined the service of respondents as Assistant Commissioner on 4.4.2010 and also hold the additional charge of Director Navodaya Leadership Institute (for short 'NLI') at Chandigarh till 1.3.2013. The applicant has stated that respondent no.1 has issued a letter dated 12.6.2007 whereby the Assistant Commissioners of NLI were allowed reimbursement of telephone and mobile phones to the ceiling of Rs.800/-. After the implementation of 6th Pay Commission recommendations, the said ceiling limit of telephone and mobile phone was enhanced to Rs.1500/- as per letter dated 19.5.2010 for Assistant Commissioners & Deputy Commissioners of NLI. In view of letter dated 19.5.2010, the applicant had withdrawn reimbursement of telephone/mobile bill to the

ceiling limit of Rs.1500/-from July, 2010 to May, 2013. In January, 2012, an audit party of respondent No.1 conducted the audit of NLI Chandigarh and raised a recovery , amounting to Rs.8466/- for the period from July, 2010 to October, 2011 on the ground that the enhancement from Rs.800/- to Rs.1500/- is for Assistant Commissioners working in the headquarter only. The applicant stood retired on 30.9.2013 from the service of the respondents on attaining the age of superannuation. After his retirement, the respondents had deducted a sum of Rs.18196/- from the leave encashment of the applicant. Hence the Original Application.

3. Pursuant to notice, the respondents have contested the claim of the applicant by filing written statement. They have stated that the applicant had withdrawn excess reimbursement of telephone bills in violation of instructions/guidelines by the Samiti. As per the internal audit made by the audit party, a sum of Rs.8466/- from July 2010 to October 2011 and Rs.9730/- from November 2011 to May 2013 was ordered to be deducted from the final payment of the applicant. The said recovery has been made as per rules and there is no violation/discrimination. They have further stated that reimbursement of Rs.1500/- is applicable only to those officers having grade pay of Rs.7600/- and working at NVS headquarters as those

officers have to deal with regional offices and all JNVs situated in the country. They have thus prayed for dismissal of the OA.

4. The applicant has filed a rejoinder by generally reiterating the averments made in the O.A.

5. We have heard the applicant in person and the learned counsel for the respondents and have gone through the pleadings.

6. Applicant's main contention is that a higher financial limit for telephone bills for Asst. Commissioner at Head quarters of NVS as compared to Asstt. Commissioners posted elsewhere is arbitrary and unreasonable because service conditions of all Asstt Commissioners is same irrespective of the postings and the telephone allowance is part of the service condition.

7. We are of the view that the logic presented by the applicant is flawed and does not merit consideration. Government reimbursing the amount incurred by officials on the use of telephone for official purposes is not a salary that has to be equal for the members of the same rank. The use of telephone for official purposes may vary from place to place. In a remote Navoday Vidyalay school/establishment, the use of telephone may be far less than say a

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place like NVS headquarters where Asstt. Commissioners may be required to be in constant touch with field offices and may be extensively using the telephone for official purposes. Therefore, a higher financial limit for defraying expenses on telephone is fully justified at Head Quarters of NVS. Applicant is wrongly placing telephone allowance at par with salary. While there can be no differentiation in salary, Telephone allowance can vary. It may be somewhat compared to House Rent Allowance (HRA), which is different for different places depending among other things, on the cost of rental accommodation at that place.

8. Applicant's contention, therefore, cannot be accepted. An order of CAT, Madras bench in OA No. 35/2009 upheld by the jurisdictional High Court that the applicant has placed before us is clearly distinguishable as the order is applicable to entirely different set of facts and circumstances.

9. We cannot also fail to take note of the fact that the applicant had himself overdrawn the telephone allowance as the drawing and disbursing officer when he was posted as Director, NLI, Chandigarh in clear violation of departmental instructions. It was a deliberate act of misinterpreting the rules and now he wants the excess recovery to be returned to him through this litigation. In our

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view, the conduct of the applicant makes it a fit case to impose costs on him for this frivolous litigation.

10. Resultantly, the OA filed by the applicant is dismissed with costs which has been quantified to Rs.5000/- (Rupees Five thousand only).

(UDAY KUMAR VARMA)
MEMBER (A).

(SANJEEV KAUSHIK)
MEMBER (J)

Dated: 31.07.2014.

Kks