

**CENTRAL ADMINISTRATIVE TRIBUNAL  
AHMEDABAD BENCH, AHMEDABAD.**

**OA No.459/2016**

**This the 26<sup>th</sup> day of October, 2018**

Shri Jesanghbhai Narsangbhai Marwada  
DOB : 10.3.1964 , Aged 51 years  
Son of Shri Narsangbhai Lakhiarbhai Marwada  
Sub Postmaster, Kukma, Sub Post Office,  
District : Kachchh – 370 105.  
Residing at Nr. Post-Office,  
P.O. Kukma, District : Kachchh, Bhuj- 370105.. .... Applicant

(By Advocate : Shri A..D.Vankar )

Versus

1. Union of India & Ors.  
Notice to be served through  
The Secretary to the Govt. of India  
Ministry of Communication & IT.  
Department of Posts, Dak Bhavan, Sansad Marg,  
New Delhi 110 001.
2. Chief Postmaster General  
Khanpur, Gujarat Circle,  
Ahmedabad 380 001.
3. Postmaster General  
Rajkot Region, Rajkot- 360 001.
4. Supdt. of Post Office

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Kachchh Division,  
Bhuj- 370 001. .... Respondents

(By Advocate : Ms. R.R.Patel )

**ORDER – ORAL**

**Per : Hon’ble Shri M.C.Verma, Member (J)**

Being aggrieved of non-permitting of HRA, for period from 07.6.2013 till 30.9.2016, instant OA has been preferred by the applicant, Jesangbhai Narsangbhai Marwada. Applicant has pleaded that he is serving as Postal Assistant in respondents and on transfer (Transfer Order **Annexure A-3**) and upon joining Sub Postmaster at Kukma, on 07.6.2013, found that his predecessor had already got relieved and thus he could not get possession of Post Attached Accommodation from his predecessor. That he noticed that two rooms of Post Attached quarter were filled up with records of Post Office and vacant place also was being utilized for Post Office work and therefore,

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it could not be used for living purpose. That he, vide his letter dated 19.08.2013, **Annexure A-4** herein, reported the Authority to allow him HRA but it was not replied and then he, on 04.9.2013 and on 21.9.2013, **Annexure A-5 & Annexure-6**, sent representation to the Superintendent of Post Office, for drawl of admissible HRA but nothing was heard. That thereafter on 07.10.2013, he, narrating the history relating to the issue sent representation, **Annexure-7**, to the Director Postal Service Rajkot, with request to enquire about his legitimate grievance and to grant him HRA in lieu of non-use of Post Attached quarter and when nothing was heard from him also, he on 23.11.2013 sent representation (**Annexure-8**) to Postmaster General, Rajkot and when its fate was also not informed he filed appeal (**Annexure-9**). It has been pleaded that none of his representation was responded nor appeal has been decided.

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2. Applicant pleaded further that he made application, under RTI Act, 2005 and he was supplied information by Superintendent of Post Office, Kutch Division, Bhuj, vide letter dated 09.06.2015, **Annexure A-1**, enclosing letter dated 24.02.2014, **Annexure A-2** of Postmaster General, Rajkot. That applicant then got issued advocate's notice on 03.11.2015 to respondent No.3 for redressal of his grievances, **Annexure A-10** and its reply given by respondent is **Annexure A-11**. Applicant has challenged **Annexure A-1** and **Annexure A-2** in instant OA.

3. In reply, respondents have pleaded that applicant was posted as SPM vide Order dated 31.5.2013, he took charge of Kukum Post Office, on 07.6.2013. That Kukum Post Office is having Post Attached quarter and hence he became suo moto allottee of Post Attached quarter and it was mandatory for the applicant to occupy the said accommodation as per O.M.No.10-

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4/2003-Bldg dated 06.5.2003 (Annexure R-1). That said O.M provides that that successor incumbent becomes allottee of Post Attached quarter and therefore, no formal order was needed to be passed. Anyhow vide letter dated 30.8.2013, Annexure R-2, the applicant was also instructed to take possession of Post Attached accommodation and to remove articles and belonging, if there was any to the Post Office but he did not comply with the instruction rather to agitated the matter. Respondents have categorically pleaded that OA is devoid of merits and the same may be dismissed.

4. Have heard the learned counsels, representing the parties at considerable length. Learned counsel for the applicant, Shri A. D. Vankar assailing Annexure A-1 & A-2 has contended that there was no space in the Post Attached accommodation, the previous Postmaster has placed Articles and Records of Post

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office in said Accommodation, applicant brought the matter to the knowledge of higher Postal authorities and requested for HRA. Learned counsel drew my attention to Annexures of OA and typed copy, Annexures A-4/1, A-5/1, A-6/1, A-7/1 and A-8/1, which are documents showing correspondence made by the applicant to Postal authorities. Learned counsel also has contended that there was no space in Post Office also to place that Records lying in Post Attached Accommodation, he concluded urging that under compelling circumstances, applicant remained deprived of Post Attached Accommodation and therefore, applicant is entitled to HRA of aforesaid period and respondents may be directed to pay HRA to the applicant.

**5.** Ms. R.R.Patel, learned counsel, who appeared for respondents vehemently opposed the submission that applicant was entitled to HRA and her contention is that there was Post

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Attached Accommodation at Kukma and that upon having received information from the applicant that some office record and belonging of Post Office has been placed therein by the predecessor of applicant, he was instructed to remove those immediately and to take the possession of the same. She drew my attention to Annexure R-2, which is at page 77 of the OA. She further submits that applicant was in charge of that Post Office and being Senior most Postal official at Kukma station had to manage affairs of Post office as well as Post Attached quarter and to comply the instructions communicated to him. She concluded that when there is Post Attached accommodation, as per Establishment Rules incumbent cannot be provided HRA except in peculiar circumstances which are not fulfilled in this case. She requested to dismiss the OA with costs.

6. Considered the submissions made at Bar and have perused the record minutely. From pleadings and submission made at Bar it is obvious that order assailed as impugned in instant OA are Annexure A-1& A-2. Operative text of letter Annexure A-1, in verbatim reads: - *“Your case for non-receipt of HRA has been transferred to this office by Postmaster General, Rajkot Region, Rajkot on 12.2.2014 and RA has been replied vide No. D2/Kukma/SPM Quarter/2013-14 dated 24.2.2014, by on perusal of file no reply given to you. The copy of above letter is enclosed for ready reference. If you are not satisfied with the reply given above, you may prefer the 1<sup>st</sup> appeal within 30 days from receipt of this decision to the below mentioned Appellant Authority.”* and of letter Annexure A-2 reads : *“In continuation of this office letter of the even no. dated 18.10.2013 and 7.2.14 it is to report that SPM Quarter of Kukma S.O. is a post attached quarter. The charge of SPM quarter is automatically taken by*



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*Shri J.N.Marwada when he took the charge of Kukma S.O and Shri Marwada is instructed accordingly.”* Annexure A-1 and Annexure A-2 pertains to information supplied under RTI Act.

7. Once it is undisputed that the impugned order of the OA in fact are information supplied under RTI Act, obviously they cannot be treated as “ Order or Orders” falling within the ambit of Section 19 of the Administrative Tribunals Act, 1985. The same are merely information received under RTI Act.

8. It is also undisputed fact that Post Attached accommodation was there at Kukma and applicant instead of occupying the same has claimed HRA. No formal Order/ Orders appears to have been passed by the Respondent Authority, either supplied by the applicant or by the respondents pertaining to HRA claim and the pleading of applicant confined to facts that

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he gave several representations for HRA. Post Attached accommodation was there but as alleged it was having no sufficient space because official records etc. have been placed there by predecessor of the applicant. The applicant has written to his superior Authority and it absolved him by instructing to shift the same to the post office. According to applicant there was no space in post office also to place said Records& goods and thus he is entitled to HRA.

9. The applicant being Senior most official at the station, no doubt was responsible for managing the local affairs relating to official record but simultaneously, as has been alleged by him there was no space in post office if was true, it was also incumbent for the senior Authorities to look into the matter and to take recourse but situation has not been handled in the way as was needed. Anyhow, the fact remains that applicant is a

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Government employee, there was Post Attached Accommodation for him at the station where he was transferred and he did not live in Post Attached Accommodation so in normal case HRA could not be provided and in such case HRA, as admitted by respondent's counsel as well, can only be permitted in peculiar circumstances only. Though it has also been contended by respondents' counsel that such peculiar circumstances are not in this case.

10. Applicant has alleged that in Post Attached accommodation official records etc. had been placed by his predecessor and there was no space in post office also to place said Records & goods and under compelling circumstances he could not live in Post Attached, if said assertion, that there was no space in post office to keep those records and goods, it was necessary for the respondents to analyse & look into the matter

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from the angle whether because of compulsion, for the reasons beyond control, which applicant could not manage at his level even being the senior most officer posted at the station, germane and *bona fide* applicant could not live in Post Attached quarter or he whimsically or for non-germane reason opted not to live in Post Attached quarter. His case for HRA had to be considered by Respondent Authority in the light of findings on said aspects but as noted above there is no formal order HRA on record.

11. In applicant elaborately has not explained in pleading of OA as what were details of record and goods of post office which were lying in Post Attached quarter, details of space in post office and how it was being used and why it was not possible to accommodate in that space record and goods of post office lying in Post Attached quarter and even if it was not possible why he could not make alternative arrangement to shift

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those of record to other place. Representation given to respondent is also not comprehensive. Senior Postal Authorities also failed to analyse the matter in its true prospective.

12. Taking note of entirety, I am of the view that rather to adjudicate this matter on merits, it would be appropriate to dispose of the OA with liberty to the applicant to give a comprehensive representation to Respondent Authority, within four weeks, and to direct the Respondent Authority to decide said representation of applicant, if is given within three months from the date of receiving of said representation. Ordered accordingly.

13. With the above said direction, the OA stands disposed off.

**(M.C.Verma)**  
**Member (J)**

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