

**Central Administrative Tribunal
Principal Bench
New Delhi**

OA No.1352/2017

This the 12th day of July, 2018

Hon'ble Mr. Justice L. Narasimha Reddy, Chairman
Hon'ble Mr. Pradeep Kumar, Member (A)

Ashok Kumar Dang, DDG
S/o Manohar Lal Dang,
R/o G-154, Second Floor,
South City-II, Gurgaon,
Haryana, presently at New Delhi.

... Applicant

(By Mr. Apurb Lal, Advocate)

Versus

1. Union of India
Ministry of Information & Broadcasting
through its Secretary,
A-Wing, Shastri Bhawan,
New Delhi-110001.
2. Prasar Bharti
through its Chief Executive Officer,
Second Floor, PTI Building,
Sansad Marg,
New Delhi-110001.
3. Director General, A.I.R.,
Akashvani Bhawan,
Sansad Marg,
New Delhi-110001.

... Respondents

(By Mr. Rajeev Sharma with Mr. Rajat Krishna and Mr. R. V. S.
Krishna, Advocates)

ORDER

Justice L. Narasimha Reddy, Chairman :

The applicant joined the service of the Prasar Bharti, the 2nd respondent herein, as Assistant Director (Engineering) in the year 1989. Thereafter, he was promoted as Deputy Director (Engineering) in the year 1990, and Deputy Director General/Superintending Engineer on 01.07.2006. On 18.11.2010, he was transferred from the station at Suratgarh (Rajasthan) to AIR, Kingsway Camp, Delhi. There existed an earmarked quarter for the Deputy Director General/Superintending Engineer, within the premises of the AIR, Kingsway Camp, Delhi. The applicant, however, did not opt for the quarter and resided outside.

2. A letter dated 04.03.2013 (Annexure A-4) was issued, requiring the applicant to pay a sum of Rs.3.31.843/-, being the recovery of the House Rent Allowance (HRA) claimed and received by the applicant. Since the applicant did not comply with the same, an office memorandum dated 01.09.2013 (Annexure A-5) was issued. Challenging the same, the applicant filed OA No.3621/2014 in this Tribunal. Obviously, because he was not successful in that OA, the

applicant filed WP(C) No.12210/2016 in the High Court of Delhi, and the same is stated to be pending, with an order of stay on recovery.

3. In the meanwhile, the disciplinary proceedings were initiated against the applicant. An order of punishment dated 09.12.2014 [Annexure A-1 (colly.)] was passed by the disciplinary authority, imposing minor penalty of withholding of two increments for a period of two years in the time scale of pay, without cumulative effect. Aggrieved by that, the applicant filed an appeal before the appellate authority. The same was rejected through a detailed order dated 20.07.2017 [Annexure A-1 (colly.)] by the appellate authority. The order of punishment as well as the one passed by the appellate authority, are challenged in this OA.

4. The applicant contends that an employee can choose whether or not to occupy the accommodation offered by the employer, and the High Court of Delhi itself was *prima facie* convinced that there was no basis for proposing to recover the amount representing HRA from the applicant. He contends that once, the recovery of arrears is stayed, initiation of disciplinary proceedings, almost in relation to the same issue,

cannot be justified either in law, or on facts. It is also urged that when the applicant, in the recent past, sought permission to occupy the quarter, he was denied the same, and with that, the very basis for framing a charge against him in relation to the alleged refusal to occupy the quarter, ceases to have any force.

5. The respondents filed a detailed counter affidavit. It is stated that the post of Superintending Engineer held by the applicant at the relevant point of time, was sensitive and important in nature, and the incumbent was required to be available within the precincts of the station, to attend to emergencies and exigencies, like cyclones and other calamities. It is also pleaded that the applicant virtually defied the official instructions, and lived outside, though the earmarked quarter was made available to him.

6. Heard Shri Apurb Lal, learned counsel for the applicant, and Shri Rajeev Sharma, learned counsel appearing for the respondents.

7. The entire issue is about the alleged failure or refusal on the part of the applicant to occupy the earmarked quarter. In the ordinary course, the proceedings in relation to the Government accommodation are initiated in the context of

refusal of the employee to vacate that. Here, it is exactly an opposite case. For the post of Superintending Engineer in AIR, at Kingsway Camp, Delhi, a residential quarter was earmarked. It was mentioned that the officer holding that post was required to be available throughout, to cover emergency situations, like cyclones and earthquakes, so that the public in general are alerted through the broadcast. There is no dispute that the applicant did not occupy that quarter. Though he pleaded that no order of allotment was issued to him, it is difficult to accept that.

8. The very fact that in his explanation, the applicant has stated that he had to live in a private accommodation, since he was paying EMIs for that, would belie his contention that there was no allotment in his favour.

9. The applicant made another attempt to convince the Tribunal that it is not necessary for a person holding that post of Superintending Engineer to occupy the quarter. After his tenure at the Kingsway Camp, he was posted to a different place. At one stage, he was kept in-charge of HPT, Kingsway Camp. Cleverly enough, this time he addressed a letter seeking permission to occupy the quarter. A reply was given stating

that the quarter is meant for regular incumbent, and not an in-charge officer. Therefore, the plea of the applicant is totally unacceptable.

10. What is imposed is a minor penalty, and every step in the departmental inquiry was taken strictly in accordance with law. The disciplinary authority passed a detailed and reasoned order, narrating all the relevant facts. The appellate authority dealt with each and every contention urged by the applicant, and arrived at its conclusions, duly supported by reasons.

11. We do not find any legal or factual ground to interfere with the order challenged in the OA. The OA is accordingly dismissed. There shall be no order as to costs.

(Pradeep Kumar)
Member (A)

(Justice L. Narasimha Reddy)
Chairman

/as/