

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK

O.A.No.260/355/2013

Date of Reserve: 04.01.2019

Date of Order: 22.01.2019

CORAM:
HON'BLE MR.SWARUP KUMAR MISHRA, MEMBER(J)

Mohammed Ansarul Haque, aged about 64 years, S/o. Late Mohammed Ibrahim, At-Pankal, PO-Nuapatna, PS-Tigiria, District-Cuttack-754 035, Ex-Deputy Accountant General, Accountant General Office, Commerce Works & Revenue Audit (CWRA), Bhubaneswar-751 001 – at present HIG-12, K-5, Kalinga Vihar, PO-Patrapada, Bhubaneswar, District-Khurda-751 019.

...Applicant
By the Advocate(s)-M/s.A.Swain
S.C.Mohanty
P.K.Misra
N.C.Moharana
P.M.P.Singh

-VERSUS-

Union of India represented through:

1. The Comptroller & Auditor General of India, Bahadursaha Zafar Marg, New Delhi-110 002.
2. Director General of Audit, Post & Tele Communication (P&T), Shamnath Marg, Civil Lines, Delhi-110 054.
3. Pay and Accounts Officer, Accountant General (A&E), Orissa, Bhubaneswar (Account &Entitlement)-751 001.

...Respondents

By the Advocate(s)-Mr.S.B.Jena
ORDER

PER MR.SWARUP KUMAR MISHRA, MEMBER(J):

In this Original Application under Section 19 of the A.T.Act, 1985, applicant has sought for the following reliefs:

"...to direct respondent nos. 2 and 3 to refund the excess payment of Rs.21,33/- to the applicant in tune of rebate 2 and ½ % interest after quashing Annexure-A/4 dated 1.6.2009 which has been passed by the respondent no.3".

2. Briefly stated, the facts of the matter are that the applicant while working as Senior Audit Officer In-charge of P&T Audit Office, Cuttack had

availed House Building Advance (in short BHA) to the tune of Rs.1,48,400/- in the month of May, 1995 in order to construct a house at his native place. At the time of availing HBA applicant had been intimated vide letter dated 22.3.1995 of the respondents that he would follow the relevant instructions. According to applicant, he was entitled to 2 $\frac{1}{2}$ % interest rebate if he fulfilled all the terms and conditions as provided therein. Grievance of the applicant is that despite he having fulfilled all the conditions, respondent no.2 directed respondent no.3 to deduct a sum of Rs.21,333/- at the rate of 12 $\frac{1}{2}$ % interest instead of Rs.19,530/- at the rate of 10% interest per annum. Aggrieved with this, the applicant submitted a representation to the authorities concerned in the year 2007 followed by further representation in the year 2008. The authorities did not consider the same and recovered excess amount from his DCRG vide A/4 dated 1.6.2009 which is impugned and called in question in this O.A.

3. The grounds urged by the applicant in support of reliefs sought are that he having fulfilled all the terms and conditions governing HBA was entitled to rebate of interest at the rate of 2 $\frac{1}{2}$ % and as such the calculation of interest and recovery thereof at the rate of 12 $\frac{1}{2}$ % is bad in law. It has been submitted that the competent authority is empowered to condone relaxation of rebate of 2 $\frac{1}{2}$ % which has not been done in his case. Deduction from DCRG is illegal, arbitrary and non-application of mind.

4. Resisting the claim of the applicant, respondents have filed their counter. According to respondents, the applicant did not comply the terms and conditions of the HBA sanctioned order. They have stated that the construction of house was completed in February, 1996, but the applicant did not take any action to submit the insurance of the house upto 21.05.2002. He

submitted the insurance copy on 05.03.2003 for the period from 22.05.2002 to 21.05.2003 after a memo was issued for non-submission of insurance vide letter dated 18.02.2003. His claim is not acceptable because has taken near about 6 years to insure his building. As the applicant was in charge of the office, he did not take any action to submit the insurance during his tenure and thereafter also. He had also not stated the valid reason for which he could not insure the house. In the case of Sri S.C.Das as cited by the applicant it has been submitted that initially, Shri Das had y submitted the insurance of the building within a gap of 2/3 months with some valid reasons for which his case was condoned. It has been submitted that the Head of the Department can only condone a period of 2 years as per GID-6 below to HBA Rule-7(b) to the satisfaction of the competent authority. The applicant being a responsible officer could not approach the competent authority except his application dated 05.03.2003. As per the Government of India Order (2-A)(2) below to BHA Rule-(6) the competent authority could allow rebate of 2.5% interest if the terms and conditions stipulated in the sanction order are fulfilled completely to his satisfaction. As the applicant was Officer in-Charge of P&T Audit Office from 17.04.1992 to 27.06.2000 he did not follow the terms and conditions. Heard the learned counsels for both the sides and perused the records including the rejoinder filed by the applicant.

5. From the pleadings of the parties, it is quite clear that the applicant did not comply with the terms and conditions of the sanctioned order so far HBA is concerned. Therefore, the rebate of interest @ 2. ½% per annum was considered recoverable since the applicant did not fulfil the terms and conditions of the HBA sanctioned order. As regards the relaxation as claimed by the applicant, there is nothing on record to show that the applicant had

adduced any cogent reason for not insuring his house after the construction was completed till the date of submission of his insurance paper to the authorities. This apart, the applicant at the relevant point of time was working as Senior Audit Officer in-charge of P&T Audit Office and therefore, it is irrational to say that he was unaware of the relevant rules and instructions governing HBA. As regards the relaxation given to one S.C.Das, in our considered opinion, the context in which relaxation was so granted to said Shri Das is not similar to the case of the applicant herein. In view of this, I am not inclined to grant any relief to the applicant as prayed for in this O.A. Accordingly, the O.A. being devoid of merit is dismissed, with no order as to costs.

(SWARUP KUMAR MISHRA)
MEMBER(J)

BKS