

**Central Administrative Tribunal
Principal Bench, New Delhi**

OA No. 738/2019

New Delhi this the 05th day of March, 2019

Hon'ble Sh. Pradeep Kumar, Member (A)

Smt. Tripta Lawrence Paul
Wife of Shri Francis Paul
C/o Chamber No. 222, IIND Floor,
Saket District Courts,
New Delhi 110017.

...Applicants

(By Advocate : Sh. Francis Paul)

Versus

1. Union of India
Ministry of Health and Welfare
Nirman Bhawan, New Delhi.11001
(Through its Secretary)

2. The Medical Superintendent,
Safdarjung Hospital, And V.M.M.C
New Delhi.110029

3. Dr. Neeraj Gupta, Estate Officer of Safdarjang
Hospital and VMMC
New Delhi-110029

4. Delhi Nurses Union (Regd)
Through its Secretary General
Ms. G.K. Khurana Having Office At
Ram Manohar Lohia Hospital, New Delhi.

..Respondents

(By Advocate : Sh. R K Shamra-R-1
Ms. Aishwarya Dobhal for Sh. Hilal Haider)

ORDER (ORAL)

The applicant had been working as Assistant Nursing Superintendent in Safdarjung Hospital. She had retired on 30th April, 2018. The applicant pleads that she was given no dues certificate on 26.04.2018 from 14 different sections. First item in this certificate deals in respect of the Estate Section which is in respect of the accommodation, electricity and water charges. The remark mentioned reads "Smt. Tripta has no government accommodation." On this basis, applicant pleads that there was nothing payable on account of accommodation or electricity etc.

2. However, the applicant pleads that vide Estate Officer, VMMC and Safdarjung Hospital orders dated 20.11.2018, she has been advised that Rs. 99,109/- are being withheld on account of the four rooms which were allotted to her during the period 30.03.1996 to 24.04.2006, and these charges are towards electricity and water.

The applicant pleads that a strike had taken place in the year 1991 which was called by Delhi Nursing Union (Respondent 4 here). The Union occupied the nursing hostel and, thereafter, it was agreed that 150 Nurses including the applicant, were to be allotted four rooms each, and no electricity or water charges were to be recovered for this. However, no document to this effect was submitted by applicant.

The applicant mentioned that thereafter the management, under the instructions of the government, allotted four rooms to the applicant to reside therein with her family members, on 30.03.1996. The applicant resided in those four rooms during the period on 30.03.1996 to 24.04.2006 and thereafter, vacated the same to occupy another accommodation.

3.0. The applicant also brought out that vide order dated 21.06.1999, notice was issued for information of all concerned that that Rs. 800/- per month will be charged for electricity (Rs 200/- per room) and Rs. 20/- per month on account of water charges. However, the applicant further pleads that the 10 Nurses whose names appear at S.No. 1 to 10 of the list dated 21.6.1999, these dues were not recovered.

Thereafter another order was issued on 14.08.2007 which also indicates that the charges at Rs. 800/- per month for electricity and 20/- per month for water are to be paid by the Nurses.

Subsequently, another letter dated 10.07.2008 was also issued which also indicates that the same charges will be payable by all the Nurses who resided in the Hostel.

4.0. In due course, a lumpsum amount of Rs. 24,200/- was deducted from the salary of the applicant without any show cause. Feeling aggrieved, she approached the Tribunal in OA No. 386/2008, which was disposed of with the following directions :-

"In the result, for the foregoing reasons, as the recovery being retrospective from the year 1996 has been effected against the applicant without a reasonable opportunity to show cause, as a pre-decisional hearing, the order passed by the respondents cannot be sustained in law. As a result of the aforesaid, any recovery affected shall now be refunded to the applicant. However, this shall not preclude the respondents to take up appropriate proceedings, if so advised, in accordance with law."

With this, the Rs. 24,200/- deducted from the applicant were refunded.

4.1. One another Nurse, also feeling aggrieved by said recoveries, had also approached the Tribunal in OA No. 1374/2008, wherein following orders were passed on 20.08.2008 :-

"Having regard to the above, being similarly situated, we feel that even necessity of filing reply would be obviated as no show cause notice was served upon the applicant before effecting recovery, OA stands disposed of with a direction to the respondents that any recovery effected be refunded to the applicant, which shall not preclude the respondents to take up appropriate proceedings, if so advised, in accordance with law. No costs."

4.2. This action is cited as supporting the averment that four rooms were to be allotted free of any electricity or water charges.

5.0. Thereafter, the respondents issued a Show Cause Notice on 10.02.2009 to the applicant indicating therein that an amount of Rs. Rs. 99,109/- is due as arrears of electricity and water charges for the period from 30.03.1996 upto 24.04.2006 (both days

inclusive and this amount is payable to the Govt. statutory authority).

6.0. The applicant is feeling aggrieved that the initial allotment letter dated 30.03.1996 did not indicate that any charges were to be payable by the occupant. Subsequent to that, the Estate Officer issued an order that this amount of Rs. 99,109/- is due and accordingly this was withheld from her retiral dues. Feeling aggrieved the applicant has filed the instant OA seeking the following reliefs :-

- “i) That this Honourable Tribunal be pleased to quash and set aside the impugned order of the Estate officer dated 20.11.2018 as the same is illegal, arbitrary, biased, without jurisdiction and against their own rules, regulations, laws and bye laws.
- ii) Respondents be directed to refund Rs. 99,109/- to the applicant, which was illegally withheld by them after her retirement under the pretext of arrears of electricity and water charges without any electricity and water bills.
- iii) The arrears of electricity and water charges as recovered by respondent no. 3 from the Nurses in accordance with the office order dated 21.6.1999, 14.8.2007, and 10.7.2008 may kindly be directed to be refunded to them as the recovery was not a Government recovery.

7. The matter has been heard at length at admission stage itself. Shri Francis Paul, learned counsel represented the applicant and Ms. Aishwarya Dobhal appeared on behalf of Sh. Hilal Haider, the learned counsel for the respondent no.2 & 3 on

advance notice and Sh. R K Sharma, learned counsel represented the respondent no.1.

8. The applicant has not been able to place on record any policy that the Nurses were allotted the four rooms way back in 30.03.1996 on free of cost basis. She is only drawing parallel with some other Nurses who have not been charged and who have since superannuated.

The Tribunal is of the view that where an employee is in occupation of government accommodation, he is required to pay the requisite charges of Electricity and water to the administration. These charges were also advised way back in 1999 itself. Since the applicant had occupied the said four rooms in the year 1996 and had vacated the same in 2006 before occupying the other accommodation, she was issued a no dues certificate on 26.04.2018 with the remarks shown in para 1.0 above. These remarks only indicate that she is not occupying a Govt. accommodation on this date i.e. 26.4.2018. This is no reflection on past dues and cannot be read to mean that there are no pending dues and especially so when electricity charges at the rate of Rs 800/- PM (Rs. 200/- PM for one room) and water charges at Rs. 20/- PM, were advised on 21.6.1999 itself. These were repeated also on 14.08.2007 and again on 10.7.2008.

However, since the dues of Rs. Rs. 99,109/- are yet to be paid for the period from 30.03.2006 to 24.04.2006 for which rates were advised also in 1999 itself, the same are to be paid by applicant and the aforementioned no dues certificate issued on 26.4.2018 has no bearing upon this recovery.

9.0. Applicant has also pleaded that Estate Officer, being an employee under Medical Superintendent of Safdarjung Hospital, is not a competent authority to issue any notice for recovery and it is required to be issued by Medical Superintendent only. This plea is rejected on the face of it as Hospital is a big organisation and separate officer will be posted to carry out their assigned duties. As the designation itself suggests, Estate Officer is the correct Officer to issue such a notice.

10. There is no merit in the OA and the same is dismissed at admission stage itself. No costs.

**(Pradeep Kumar)
Member (A)**

sarita

...