

**CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH**

OA No. 218 of 2014

Present: Hon'ble Mr. Gokul Chandra Pati, Member (A)

Srikanth Sethi, aged about 49 years, S/o Late Subal Sethi, presently working as Postal Assistant, Talcher Thermal SO, At/PO-Talcher Thermal, Dist.-Anugul.

.....Applicant

VERSUS

1. Union of India, represented through its Secretary-cum-Director General of Post, Ministry of Communication, At-Dak Bhawan, Sansad Marg, New Delhi-110001.
2. Chief Postmaster General, Odisha Circle, At/PO-Bhubaneswar, Dist-Khurda.
3. Postmaster General, Sambalpur Region, At/PO/Dist-Sambalpur.
4. Superintendent of Post Offices, Dhenkanal Division, At/PO/Dist-Dhenkanal.
5. Postmaster, Angul HO, At/PO/Dist-Anugul.

.....Respondents.

For the applicant : Mr.S.Patnaik, counsel

For the respondents: Mr.J.K.Nayak, counsel

Heard & reserved on : 17.9.2019 Order on : 25.9.2019

ORDER

Per Mr.Gokul Chandra Pati, Member (A)

The applicant in this OA has prayed for the following reliefs :

"(i) To quash the order of recovery and as well as order to stop drawal of house rent in Memo No.D-66 dtd. 27.9.2013 under Annexure A/2 and order of rejection dtd. 17.12.2013 under Annexure A/4.

(ii) To allow the original application.

(iii) And pass such other order/orders direction/directions as deem fit and proper to the facts and circumstances of the case to give complete relief in favour of the applicant."

2. The applicant is aggrieved by the fact that the respondents have passed order dated 27.9.2013 (Annexure A/2) for recovery of the House Rent Allowance (in short HRA) of Rs.90,875/- stated to have been paid to the applicant from 18.6.1996 though he has not vacated the staff quarter allotted to him. The applicant is working as a Postal Assistant and he had approached this Tribunal by filing first round of litigation in OA No. 724/2013, which was disposed of vide order dated 16.11.2013 at the stage of admission with a

direction to the respondent No.4 to take a decision on his representation. In compliance, the respondent No.4 vide order dated 17.12.2013 (Annexure A/4) has rejected the representation. Both the orders dated 27.9.2013 (Annexure A/2) and order dated 17.12.2013 (Annexure A/4), rejecting his representation have been challenged in this OA.

3. The grounds advanced in the OA are that no opportunity was given to the applicant to put forth his point of view before the authorities before passing the impugned order dated 27.9.2013 for recovery from the applicant. The applicant has further submitted that he was never allotted any staff quarter or any quarter which is the subject matter of the present OA. He specifically averred that he was not in possession of the staff quarter No. LCH-97 as stated in the order dated 27.9.2013 (Annexure A/2). It is stated that he submitted a representation which was not considered and the impugned order at Annexure A/2 for recovery was passed without giving any opportunity of hearing to the applicant. It is further stated that he made an application under RTI Act vide his application dated 1.1.2014 (Annexure A/5) to find out the status. Regarding the quarter in question, it is stated in the reply dated 30.1.2014 (Annexure A/6) to the RTI application, stating that the quarter No. LCH-97 is not a Government quarter and it is leased out by the MCL authorities and is allotted to the staff serving at Deulabera Colliery. It is stated that the reply to the applicant's question "whether the quarter No. LCH-97 was allotted to Sri Sethi as per Rule FR-45 & SR-317", does not clarify whether the said quarter was allotted to the applicant.

4. The respondents have filed their counter stating that the applicant was allotted the quarter No. LCH-97 w.e.f. 19.6.1996. The extract of the register entry has been enclosed at Annexure R/2 of the counter, which shows that the LCH-97 quarter was in occupation of the applicant and the date of vacation has been indicated to be 1.10.2001. At Annexure R/3, copy of the letter of the applicant has been enclosed in which he has mentioned about taking occupation of the quarter No. LCH-97. It is mentioned that after completion of tenure of the applicant, another PA was posted at Deulabera Colliery and an

application at Annexure R/4 and R/5 was received by the respondents from the new incumbent as well as the applicant for sharing of the said quarter No. LCH-97. This was allowed by the authorities and both the officials were permitted to share the quarter vide order dated 18.2.2002 (Annexure R/6). Subsequently, the application was again posted to Deulabera Colliery as PA and he worked from 2.8.2004 to 26.9.2005 and he continued in the said quarter even after he has been transferred to other place subsequently after 1.10.2005. It is stated that as the applicant continued to draw the HRA though he was not entitled to HRA. When it came to the notice of the authorities, the Postmaster Angul HO was instructed to stop the drawal of HRA vide order dated 27.9.2013 (Annexure A/2) with direction for recovery of the HRA which was paid to the applicant. On receipt of the said order, the applicant submitted a representation and then filed OA No. 724/2013.

5. It is further stated in the counter that the applicant was posted in Talcher, where he was offered a quarter. He was asked to vacate the quarter at Deulabera Colliery but he informed his inability to take possession of the quarter at Talcher. It is further stated that the applicant is yet to vacate the quarter LCH-97 vide order at Annexure R/10 by which he was asked to vacate the said quarter. In reply to the contention at para 4(3) of the OA that the quarter LCH-97 was never allotted to him, it is stated in the counter that the letters at Annexure R/1, R/2 and R/3 clearly show that the allotment of the said quarter in favour of the applicant and the letter of the Sub Post Master, Deulabera Colliery, copy at Annexure R/9 shows that one quarter is under occupation of the applicant.

6. No rejoinder has been filed by the applicant.

7. Heard learned counsels for the applicant and the respondents. The contentions regarding allotment of quarter No. LCH-97 as raised in para 4 of the counter have not been denied or contradicted by the applicant. The documents at Annexure R/2 show that the quarter was vacated by the applicant on 1.10.2001 and that he has re-occupied the quarter is not coming out from the Annexure R/2. The letter at Annexure R/4, written by the

applicant on 19.11.2001 for sharing of the said quarter with another employee, Sri Aswini Kumar Swain and the letter dated 5.7.2012 at Annexure R/9 show that the quarter was under occupation of the applicant. The applicant has not been able to furnish any clarification about the documents furnished by the respondents along with the counter

8. In view of the above, contentions of the applicant that he was never allotted the said quarter and that no opportunity of hearing was allowed to the applicant are not acceptable, considering the facts on record. In the circumstances, I am of the view that grounds advanced by the applicant in this case are not adequate to justify any interference in the matter. Accordingly the OA is dismissed and the interim order dated 11.4.2014 stands vacated. There will be no order as to costs.

(GOKUL CHANDRA PATI)
MEMBER (A)

L.Nath