

CENTRAL ADMINISTRATIVE TRIBUNAL
KOLKATA BENCH, KOLKATA

No. O.A. 350/01067/2019

Date of order: 28.8.2019

Present : Hon'ble Ms. Bidisha Banerjee, Judicial Member
Hon'ble Dr. Nandita Chatterjee, Administrative Member

Avijit Ghosh,
Son of Late Ajit Kumar Ghosh,
Aged about 57 years,
Working for the post of
Assistant Commissioner (Tele),
Special Bureau,
Government of India,
Hathikanda,
Haringhata, Nadia,
West Bengal,
Residing at Flat No. 1/B,
Block 22, Diamond City (North),
68, Jessore Road, P.O. Bangur Avenue,
P.S. Dum Dum,
Kolkata - 700 055.

A. Applicant

- V E R S U S -

1. Union of India,
Through the Secretary (R),
Cabinet Secretariat,
Govt. of India,
Room No. 7,
Bikaner House (Annexe),
Shahjahan Road,
New Delhi - 110 011.
2. The Additional Secretary (Administration),
Cabinet Secretariat,
Head Quarter,
New Delhi - 110 011.
3. The Under Secretary (Admn. A),
Government of India,
Cabinet Secretariat,
New Delhi - 110 011.
4. The Additional Commissioner (Tele),
Special Bureau,

Abhijit Ghosh

Hathikanda,
District : Nadia,
Pin - 741246.

5. Commissioner (EZ),
Special Bureau,
Govt. of India,
316, Shanti Pally,
East Kolkata Township Project,
Kolkata - 700 039.
6. The Additional Commissioner,
Special Bureau,
Govt. of India,
316, Shanti Pally,
East Kolkata Township Project,
Kolkata - 700 039.
7. The Assistant Commissioner (Tele)/
Administration,
Special Bureau,
Hathikanda,
District - Nadia,
Pin - 741 246.

... Respondents

For the Applicant : Mr. B. Chatterjee, Counsel

For the Respondents : Mr. R. Halder, Counsel

O R D E R (Oral)

Per Dr. Nandita Chatterjee, Administrative Member:

This Original Application has been filed under Section 19 of the Administrative Tribunals Act, 1985 praying for the following relief:-

- "(a) An order directing the respondent authorities to quash and set aside the impugned Office Order dated 24.7.2015 being No. 05/04/2015-HTK (PERS)-3630, Govt. of India, Special Bureau, Hathikanda issued by Deputy Commissioner (Tele).
- (b) An order directing the respondent authorities to quash and set aside the impugned Office Order dated 11.8.2015 being No. 05/02/2014-HTK(PERS)-4082, Govt. of India, Special Bureau, Hathikanda issued by Deputy Commissioner (Admn.).
- (c) An order holding that the actions on the part of the respondent authorities forcing the applicant to accept the allotted Government Accommodation/Quarter as well as making allotment unilaterally and stoppage of House Rent Allowance due to non-acceptance of allotted Quarter are bad in law, arbitrary and violation of rights guaranteed under Article 14 of the Constitution of India.

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- (d) An order directing the respondent authorities to grant and release the House Rent Allowance from the date it has been stopped along with Arrear with interest and all consequential benefits thereto.
- (e) An order directing the respondent authorities to consider the representations of the applicant dated 17.6.2015, 3.8.2015, 21.7.2016, 12.9.2017 and 4.12.2018 in view of the settled position of law as mandated by the Hon'ble Apex Court of India as well as Hon'ble High Courts and this Hon'ble Tribunal.
- (f) An order directing the official respondents to produce/cause production of all records relating to the subject matter of the case;
- (g) Any other order or orders as this Tribunal may deem fit and proper."

2. Heard both Ld. Counsel, examined documents on record. The matter is taken up at the admission stage.

3. The submissions of the applicant is that he was initially appointed to the post of Deputy Field Officer and thereafter promoted as Field Officer and posted at Hathikunda in the District of Nadia, West Bengal. That, despite the fact that the applicant made a representation requesting the authority concerned not to allot him any government accommodation, he was allotted a government accommodation upon which the applicant prayed for cancellation of the said allotment order. The applicant thereafter made repeated representations seeking permission to surrender the quarter on the ground that it did not confirm to the specifications as laid down by MOUD circulars.

That, a similarly circumstanced employee had approached the Central Administrative Tribunal, Kolkata Bench in O.A. No. 1800 of 2017 praying for similar relief and the Tribunal had disposed of the same on 14.11.2018 directing the respondent authorities to dispose of the applicant's representation seeking payment against HRA in the light of judgment in WPCT. No. 111 of 2011, as affirmed by the Hon'ble Apex Court. That, thereafter, the respondent authorities issued a memo dated 17.6.2019 in which the applicant in O.A. No. 1800 of 2017 was allowed payment of HRA from the date of his eligibility with a direction to release HRA to the applicant.

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4. The applicant has now approached the Tribunal seeking benefit of the said judicial orders. Ld. Counsel for the applicant would further submit that he would like to withdraw this O.A. and thereafter prefer a comprehensive representation citing all judgments in support and, accordingly, the O.A. is allowed to be withdrawn with liberty to the applicant to prefer a comprehensive representation citing orders and judicial pronouncements in his support within a period of three weeks from the date of receipt of a copy of this order.

In the event such representation is preferred and received by the concerned respondent authority, the said respondent authority shall thereafter proceed to examine the contents of such representation and decide in accordance with law. The said respondent authority will examine as to whether the applicant is similarly circumstanced as the applicant in O.A. No. 1800 of 2017 and decide on the applicability of the ratio cited in support. The concerned authority, having decided in accordance with law, will thereafter convey his decision in the form of a reasoned order to the applicant.

The entire exercise shall be completed within 12 weeks of receipt of such representation from the applicant.

5. With these directions, the O.A. is disposed of. No costs.

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(Dr. Nandita Chatterjee)
Administrative Member

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(Bidisha Banerjee)
Judicial Member

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