

(2023) 07 CAT CK 0021

In the Central Administrative Tribunal

Case No : Original Application No. 731 Of 2015

Ram Yadav Sub Staff Kendriya Vidyalaya C.O.D Chheoki
Allahabad 212105

APPELLANT

Vs

Commissioner, Kendriya Vidyalaya Sangathan Head Quarter
18, Institutional Area Shaheed Jeet Singh Marg New Delhi &
Ors

RESPONDENT

Date of Decision : 15-07-2023

Acts Referred:

Administrative Tribunals Act, 1985 — Section 19

Citation : (2023) 07 CAT CK 0021

Hon'ble Judges : Om Prakash VII, Member (J)

Bench : Single Bench

Advocate : S.K. Singh Vashisth, N.P. Singh

Final Decision : Allowed

Judgement

Om Prakash VII, Member (J)

1. Shri S.K. Singh Vashisth, learned counsel for the applicant, and Shri N.P. Singh, learned counsel for the respondents, were present at the time of hearing.

2. Present Original Application has been filed by the applicant under section 19 of the Administrative Tribunals Act 1985 against the order No.43013 (SRY) 2014 - KVS(VNS) 4696 dated 05.02.2015 passed by the respondents and has sought the following relief:

“(a) issue an order or direction to respondents to quash the impugned order dated 05.02.2015 passed by respondent No.2,

(b) Issue an order and direction to return the deducted amount from salary of the applicant for quarter allotted in spite of refusal of the applicant with interest of 18%

(c) Issue an order or direction to respondents which the Hon’ble Tribunal deem fit

and proper

(d) award cost in the favour of the applicant.”

3. Brief facts of this case are that the applicant, Shri Ram Yadav, was initially appointed as peon in Kendriya Vidyalaya on 29.11.1979 and on 06.07.1998 he was promoted as Sub-Staff. In his career he has been transferred to different places. The applicant has a house in A.D.A. Colony Naini Allahabad. When an option form for allotment of quarter -type A (Group D/ Lab Attendant)- was issued by the respondents vide letter dated 26.09.2005 the applicant clearly wrote in front of his name that he is unwilling to take the quarter. In spite of this, he was allotted Quarter No.1/2 in the campus of K.V. New Cantt Allahabad vide letter dated 29.09.2005 and electricity charges and house rent deduction began from his salary. On 30.09.2005 the applicant gave a representation to the respondent and requested to cancel the above mentioned allotment of quarter to him. On seeking information through RTI Act 2005, the applicant received a letter dated 25.01.2010 which mentions the total amount of the 'said illegally deducted HRA' as Rs.10330/- .This was followed by representations by the applicant to the respondents dated 23.03.2013 and 15.02.2014 requesting to return the amount deducted by the respondents from his salary as electricity charges and house rent. When no favourable response was made on the part of the respondents, the applicant filed O.A./1318/2014 before this Tribunal which was disposed of on 09.12.2014 with the direction to the respondents to decide the representation of the applicant and pay him back the amount deducted with 6% interest if it was done illegally. The applicant served a copy of the order along with a representation to the respondents on 24.12.2014 which the respondents decided by rejecting the claim of the applicant.

4. Submission of learned counsel for the applicant is that when option was asked to the applicant to give his option for allotment of quarter, the applicant made specific indication before his name on the option paper that he is unwilling to take the quarter. Despite this fact, an allotment order was issued in favour of the applicant. It is also argued that the applicant immediately informed the competent authority to cancel his allotment order. The respondents, instead of canceling the allotment order, recovered the license fees etc. from the salary of the applicant illegally. It is also argued that at no point of time any inventory regarding the handing over of the possession showing the articles contained in the house under question was prepared and at no point of time the applicant received the key of the house under question. Since no heed was paid by the respondents on the several representations made by the applicant, he approached this Tribunal through O.A./1318/2014 which was disposed of directing the respondents to finalise the pending representation of the applicant within a period of two months from the date of receipt of a certified copy of the order. It was also specifically directed that "If the HRA was deducted illegally, the deducted amount shall be paid to him back with interest of 6% p.a." Referring to the aforesaid fact, it was further argued that the respondents reiterated the

same facts in the impugned order taking their earlier stand. It is also argued that since the applicant's house is already situated in Prayagraj, therefore, the applicant had expressed his unwillingness against his name in the option form for allotment of quarter. Hence, the allotment made unilaterally on part of the respondents cannot be said to have been made on the request of the applicant. It is also argued that if there is his signature on the allotment order that is also not sufficient to presume that allotment was made with the consent of the applicant. The applicant has not received the key of the quarter under question nor had he occupied it. Thus, there was no question of vacating the same. Thus, deduction made from the salary of the applicant is illegal. The entire action was taken against the applicant due to the reason that the applicant had made representation before the concerned Hon'ble Minister. Thus referring to the aforesaid facts, prayer was made to allow the O.A. and direct the respondents to refund the deducted amount from the salary of the applicant.

5. Learned counsel for the respondents refuted the argument of learned counsel for the applicant arguing that the allotment order was issued with the consent of the respondents as is clear from the allotment order itself where the applicant has made his signature dated 29.09.2005. He received the key of the house but did not vacate the house under question timely. Due to this reason, deduction from his salary as permissible under the law was made. To substantiate this argument, learned counsel for the respondents referred to the contents of the counter affidavit and Annexure No.1 of the counter affidavit and further argued that there is no illegality in the impugned order.

6. I have considered the rival contentions of learned counsel appearing for both the parties and have gone through the entire documents on record.

7. In this matter, as is evident from the record, the applicant has shown his unwillingness regarding allotment of the quarter on the letter issued by the respondents itself. There is his signature on the allotment order but nothing is on record to show that at any point of time the applicant had taken possession of the house under question. The respondents have also failed to adduce any inventory regarding the house under question on the basis of which possession over the quarter was handed over to the applicant. Record also reveals that on several occasions, the applicant had made representations before the respondents to cancel the allotment mentioning therein that he is residing in his own house situated at Prayagraj itself. If such is the situation and comparing the pleadings of the parties with the submissions raised across the bar it would be clear that the allotment order made by the respondents was passed unilaterally against the wishes of the applicant. In absence of any inventory, the facts disclosed in the O.A. are liable to be accepted. If the applicant has shown unwillingness regarding the allotment of the quarter, the respondents ought not to have allotted the quarter in his name. Deduction of license fees and other fees from the salary of the applicant is also illegal as is clear from the information gathered by the applicant through the RTI reply dated 25.01.2010 annexed with

the O.A. (Annexure No.8).

8. On the basis of the aforesaid discussion, I am of the considered opinion that the O.A. is liable to be allowed and the impugned order is liable to be set aside. Accordingly, O.A./731/2015 is allowed. Impugned order dated 05.02.2015 is hereby set aside. Respondents are directed to refund the entire recovered amount to the applicant within a period of three months from the date of receipt of certified copy of this order along with 6% p.a. interest.

9. All associated MAs stand disposed of accordingly.

10. No order as to costs.