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CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH

O.A. No.1248/2004

New Delhi this the 28<sup>th</sup> day of October, 2004

**Hon'ble Mr. S.K. Malhotra, Member (A)**

1. Director General,  
Council of Scientific & Industrial Research.  
Anusandhan Bhawan,  
2, Rafi Marg, New Delhi-1

2. National Physical Laboratory  
Through its Director,  
Dr.K.S.Krishnan Marg,  
New Delhi-12

.....Applicants

(By Advocate: Shri Satish Kumar)

Versus

Dr.Hari Om Upadhyay  
Vill Kyori Road, P.O. Pinhar,  
Distt. Agra (U.P.)

Respondent.

(Applicant in person)

**O R D E R**

This OA has been filed by Council of Scientific & Industrial Research(CSIR) and National Physical Laboratory(NPL) against one Dr. Hari Om Upadhyay who was engaged as Sr. Research Associate during the period 1993-98, for recovery of penal licence fee and water charges amounting to Rs. 1,80,279/- for unauthorized occupation of quarter by him for the period from July, 1998 to October, 2002.

2. The facts of the case, in brief, are that Respondent Dr. Hari Om Upadhyay was engaged as Research Associate w.e.f. 30.4.93 and subsequently engaged as Sr. Research Associate w.e.f. 30.06.95. His term came to an end on 30.6.98. Being a Research Associate, the respondent was allotted a quarter which was being occupied by him w.e.f. 6.12.93. The respondent had earlier filed OA No. 1056/98 before this Tribunal praying for his regular absorption but the same was dismissed vide order dated 6.4.99. After completing his tenure as Sr. Research Associate on 30.6.98, the allotment of the quarter in his name stands automatically cancelled w.e.f. 1.7.98 and the respondent should have

(Signature)

handed over the vacant possession to CSIR/NPL. According to Rule 18.1 of the Allotment Rules, for unauthorized occupation of a quarter, the respondent is liable to pay penal licence fee, electricity and water charges which according to the calculations made by the applicants works out to Rs.1,80,279/- upto 7.10.2002 on which date he ultimately vacated the quarter. During this period, the applicants had issued several Memos to him to vacant the quarter and deposit the licence fee but the respondent neither vacated the quarter nor paid the dues. It was only in October, 2002 that he vacated the quarter but did not deposit the licence fee.

3. The respondent has filed a counter reply in which he has frankly conceded that he completed his Sr. Research Associateship on 30.6.98 but vacated the quarter in September, 2002, without taking no dues certificate from CSIR/NPL. He has stated that as he was without any job, he did not have money to pay the penal licence fee and other dues. It has been contended by him that although he is qualified with 15 years' Research experience, he was not given any regular position. Since he was without job, he had no other option but to stay in the quarter. He is a married man having two school going children. It has been stated by him that it is a normal practice in NPL for the candidates like the respondent to live in the accommodation till the regular position was available. No penal licence fee had ever been charged from any candidate who was similarly placed like him.

4. I have heard the learned counsel for the applicants and also the respondent in person.

5. During the course of the arguments, the respondent Dr. Hari Om Upadhyay did not take any plea for non-payment of dues except that he was unemployed and CSIR/NPL failed to give him regular position, despite him being a brilliant Research Scholar. He stated that despite his long experience in research, the Government has not been in a position to utilize his services against any regular post. He further stated that as he does not have any job, he is not in a position to make payment of the penal licence fee and the same should be exempted.

6. I have given careful consideration to the facts and circumstances of the above case. It is unfortunate that a person of such qualification and of experience, is without any proper job. At the same time it cannot be ignored that it was totally illegal for him to continue occupying the quarter unauthorizedly for such a long period of over 4 years after

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completing his tenure as Sr. Research Scholar in June, 1998. In case such a practice is allowed, the accommodation would not be available to meet the genuine requirement of other research scholars. It is also observed that the applicants in the instant case, apart from issuing 3-4 memos to the respondent, did not take any effective steps to get the quarter vacated. The possibility of connivance of some of the officers of CSIR/NPL to allow such unauthorized occupation of quarter in the case of the respondent and others such scholars, as alleged, cannot be ruled out. This needs to be probed into and appropriate action taken so that such incidents do not recur. Although I have sympathy with the respondent who is stated to be unemployed but that does not give him any legal right to unauthorisedly occupying the government accommodation. The respondent either in the written reply or during the course of arguments has not challenged the penal licence fee and other charges amounting to Rs.1,80,279/- worked out by the applicants. This amount is, therefore, liable to be charged from him as per Rules. However considering the fact that the respondent is unemployed, it may be difficult for him to deposit the whole amount in lump sum. He should be allowed to deposit the same in easy instalments spread over a period of two years.

7. In view of the above, the OA succeeds and is allowed to the extent that the applicants are authorized to recover from the respondent a sum of Rs. 1,80,279/- in equal monthly instalments spread over a period of two years starting from 1.12.2004. In case, the respondent does not pay the required amount within the time specified, the applicants will be at liberty to take appropriate legal steps to recover the same from him under the law.

No costs.

*Amulya*  
 (S.K.Malhotra)  
 Member (A)

New Delhi

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