

Central Administrative Tribunal
Principal Bench

O.A.No.3400/2001
M.A.No.871/2002

Hon'ble Shri Shanker Raju, Member(J)

New Delhi, this the 28th day of May, 2002

Likhi Ram
s/o Shri Chiranjit Lal
r/o WP 171, Wazirpur
Delhi - 110 052
Last working as Fitter (Auto)
Delhi Milk Scheme, West Patel Nagar
New Delhi. ... Applicant

(By Advocate: Shri C.B.Pillai)

Vs.

1. Union of India through
The Secretary to the Government of India
Department of Animal Husbandry & Dairying
Ministry of Agriculture
Krishi Bhawan
New Delhi.
2. The General Manager
Delhi Milk Scheme
West Patel Nagar
New Delhi - 110 008. ... Respondents

(By Advocate: Shri B.S.Jain)

O R D E R (Oral)

By Shanker Raju, M(J):

Heard the parties.

2. Applicant impugns respondents' order dated 30.8.2001 wherein a recovery of Rs.70,666/-, at the rate of Rs.1200/- per month, was effected on account of an unauthorised occupation of the Government accommodation by the applicant and an amount of Rs.45,958/- was recovered. As the amount recovered was less than the amount calculated, further a sum of Rs.24,708/- has been ordered to be recovered from the salary of the applicant from the months of September and October, 2001 and the remaining amount shall be

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recovered from the DCRG, which according to the respondents has been recovered by an order dated 20.3.2002.

3. Applicant, who was in possession of a Government accommodation, an enquiry has been conducted by six officers where it has been proved that he subletted the Government accommodation to an unauthorised occupant. Thereafter unauthorised occupant filed a suit for injunction to restrain the petitioner therein, i.e., applicant from evicting him from Government accommodation. A memorandum of minor penalty was served upon applicant vide order dated 28.11.1995, Annexure -A2 and on its reply, the same was dropped by an order dated 28.6.1997. Consequent upon, the period of suspension was treated as period spent on duty and the increments have been released.

4. It is the grievance of the applicant that he has not been put to a reasonable notice before the impugned order dated 30.8.2001 has been passed. It is also stated that he has been discriminated in the matter of recovery as in similar circumstance, one Shri Babar Singh has been imposed upon a recovery of Rs.500/- per month has been ordered whereas in the case in hand a recovery of Rs.1780/- per month has been ordered. In this background, it is stated that the respondents who have not rebutted this in their counter reply, have meted out a differential treatment to him.

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5. On the other hand, learned counsel for respondents took a preliminary objection by stating that the cause of action had arisen on 4.5.1992 and recovery order has been passed in the year 2001, the present OA is barred by limitation and the delay cannot be condoned in view of the Apex Court's Judgement in Udam Singh Kamal & Ors. Vs. Union of India, 2000(2) SLJ (Vol.74) 89. It is also contended that in pursuance of the inquiry by six officers, it was found that the applicant has subletted his accommodation which he vacated on 26.7.1995 and the same is also not disputed. It is further stated that applicant was given due notice and recovery at the rate of Rs.1200/- per month was ordered to be recovered and was effected through a notice served upon the applicant where the amount has been specified, the aforesaid recovery is in accordance with the rules and is legally tenable.

6. I have carefully considered the rival contentions of both the parties and perused the material on record. In the interest of justice, without going into merits of the case, I find in the averments of the applicant allegation of discrimination and differential treatment meted out vis-a-vis one Shri Babar Singh, whose recovery was effected at the rate of Rs.500/- per month and in their reply the respondents have not rebutted it. However, learned counsel for respondents has stated that in absence of specific particulars, it would be difficult to ascertain whether Shri Babar Singh is similarly circumstance or not.

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7. In view of the discussion made above, the OA is disposed of with a direction to the applicant to make a self-contained representation, giving details of the recovery effected against Shri Babar Singh, to the respondents within one month from the date of receipt of a copy of this order. Thereafter, the same shall be considered by the respondents, keeping in view of the principles of equality enshrined under Articles 14 and 16 of the Constitution of India and to pass a detailed and speaking order within two months from the date of receipt of a copy of representation from the applicant. No costs.

S. Raju

(Shanker Raju)
Member(J)

/rao/