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CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

DA No.890/2001

New Delhi, this 5th day of February, 2002

Hon'ble Shri M.P. Singh, Member(A)

Maichand
H.No.51/2, Feroz Gandhi Colony
Gurgaon (Haryana) Applicant

(By Shri R.R. Arvind, Advocate)

versus

Union of India, through

1. Secretary
Ministry of Agriculture
Krishi Bhawan, New Delhi
2. Director of Administrative
IARI, New Delhi
3. Sr. Admn. Officer (Housing)
IARI, Pusa, New Delhi
4. Asstt. Engineer (Electrical)
Enquiry Office, Krishi Kunj
IAIR, New Delhi, through
Chairman, DVB, Shakti Bhawan, New Delhi
5. Asstt. Engineer Civil (CPWD)
Enquiry Office, IARI, New Delhi
Through DG,CPWD, New Delhi ... Respondents

(By Ms. Geejanjali Goel, Advocate)

ORDER

Heard the learned counsel for the parties and perused the records. The short point that needs determination is whether the respondents are justified in effecting penal rent from the applicant in respect of the quarter allotted to him, despite the fact that he had surrendered the said quarter on 22.7.98, on the ground that the applicant has not produced the no due certificate from the electricity authority (Delhi Vidyut Board-DVB) in respect of the said quarter.

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2. It is the case of the applicant that he was allotted Type I quarter No.856, Loha Mandi, Krishi Kunj, IARI vide memo dated 13.6.89. This quarter was earlier allotted to one Smt. Satyawati who was in occupation of the same till 1.11.1987. The electric meter installed in this quarter was removed on 21.11.87 by DESU (now DVB). The quarter was allotted to one Shivaji Rai on 2.11.87 and it was under his occupation upto 31.3.89. Allotment of this quarter was cancelled in the name of applicant vide memo dated 28.3.98 on the alleged ground of sub-letting the quarter. When the applicant approached the Housing Section, IARI on 22.7.98 for surrendering the quarter, it was refused. He again made an application to the Supdt. (Housing) IARI on 13.8.98 to accept the surrender of the quarter but he was informed vide letter dated 18.8.98 that he may surrender the same only after clearance of electricity dues in respect of the quarter. Thereafter, the applicant was compelled to approach the Chairman, Public Grievances Commission, Delhi Admin. on 4.7.2000 against the DVB authorities in response to which he received a reply alongwith a copy of letter from the Chairman, DVB dated 3.8.2000 to the effect that the applicant never applied for an electricity connection from DVB throughout the period of his stay in the quarter from 13.6.89 to 22.7.98 and that since the applicant was never the registered consumer of the DVB the local office did not issue a 'no dues certificate' to him as the same was not applicable. In view of this position, applicant seeks direction to the respondents to accept the date of surrender of the quarter on 22.7.98 and not on 8.8.2000

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when he submitted the letter of DVB; pay HRA to him w.e.f. 22.7.98 when he had surrendered the quarter and not to recover penal rent from him till 8.8.2000 because he had not retained the quarter after 22.7.98.

3.. It is the case of the respondents in their reply that it was the duty of the applicant to get the electric meter installed in his name but he never made any attempt to do so. The allotment of the quarter in his name was cancelled on 28.3.98 on the ground of sub-letting. Applicant's purported effort to surrender the quarter on 22.7.98 was not accepted as he failed to fulfil all the formalities for the same. The applicant submitted no dues certificate only on 8.8.2000 and thereafter the CPWD took possession of the quarter. Therefore, penal rent due till that date has to be recovered from the applicant as per rules. Also, since the applicant unauthorisedly retained the quarter from 27.5.1998 to 8.8.2000, the DDO was requested to recover damage rent of licence fee amounting to Rs.42,925/- from the applicant. In view of this position, the OA is liable to be dismissed.

4.. After hearing the counsel for the parties and perusing the records available before me, I find that it is an admitted position that the applicant, after taking over possession of the quarter in question in June, 1989, never applied for electric connection throughout the period of his occupation of the quarter. It is also not disputed that the said quarter was earlier occupied by Smt. Satyawati who was issued a electricity bill for Rs.11831, which was ultimately paid by the said Smt. Satyawati. Thereafter the electric meter installed in

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the name of Smt. Satyawati was also removed by DVB on 21.11.87 and the quarter was in possession of Shivaji Rai till 31.3.89, while the applicant took over possession in June, 89. Respondents themselves admit that the applicant never made effort to get electric connection or to get the electric meter installed in his name in the quarter. Even the DVB in its letter dated 3.8.2000 has made it very clear that since the applicant never applied for an electricity connection and he was never a registered consumer with DVB, naturally there was no question of dues against the consumer and his department is perhaps unnecessarily insisting for a "no dues certificate" from DVB. When the applicant genuinely tried to hand over possession of the quarter twice, respondents did not accept the surrender on the ground of non-availability of 'no dues certificate' from DVB, when the respondents were fully aware of the fact that the applicant never got electricity connection in his name from DVB. In other words, respondents should have accepted the surrender of the quarter on 22.7.98 and then taken action for recovery of penal rent or otherwise, in accordance with the rules, instead of compelling the applicant to approach the Public Grievances Commission and getting a categorical letter from DVB to the aforesaid effect.

5. In view of this position, I find force in the contention of the learned counsel for the applicant that the applicant made genuine efforts to hand over possession of the quarter, once its allotment was cancelled in his name, but the respondents did not accept the same on the ground of non-submission of no dues

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certificate from DVB, particularly when the fact remains that the applicant never got electric connection in his name as has been admitted by the respondents themselves.

6. In the result, the OA is allowed and the letters dated 3.8.2000 and 23.10.2000 are quashed and set aside. I hold that the applicant is entitled to HRA from 22.7.98 i.e. the date of surrender of the quarter and the amount, if any, already recovered from the applicant on account of damage rent etc. shall be refunded to him immediately. The OA is disposed of as aforesaid. No costs.



(M.P. Singh)
Member(A)

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