

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

O.A. NO. 1391 of 1995
M.A. NO. 2361 of 1995

New Delhi this the 29th day of September, 1995

HON'BLE SHRI A. V. HARIDASAN, VICE CHAIRMAN (J)
HON'BLE SHRI R. K. AHOOJA, MEMBER (A)

Shri B. L. Dhanvi S/O Shri Ram Dulare,
Junior Central Government Advocate,
Litigation (High Court) Section
at Delhi High Court, Department
of Legal Affairs, Government of
India, Ministry of Law, Justice
and Company Affairs, 452-Lawyers'
Chambers, High Court of Delhi,
New Delhi - 110003. ... Applicant

(By Shri B. B. Raval, Advocate)

-Versus-

1. Union of India through
Secretary to the Government
of India, Department of
Legal Affairs, Ministry of
Law, Justice & Company Affairs,
Shastri Bhawan,
New Delhi.
2. Director of Estates,
Government of India,
Ministry of Urban Development,
Nirman Bhawan,
New Delhi. ... Respondents

(Shri C. Harishankar, proxy counsel for Shri
Madhav Panikar, for Respondent No.1.
None for respondent No.2)

O R D E R (ORAL)

Shri A. V. Haridasan, VC (J) :-

M.A. 2361/95

There are three prayers in this P.A. One is for
impleadment of the Director of Estates, Government
of India, Nirman Bhawan, New Delhi, as additional
respondent No.2. Second is for a direction to
respondent No.2 not to dispossess the applicant of
his quarter No. 16-Q, Block No.16, CPWD Quarters,
Vasant Vihar, New Delhi, and the third is to direct

respondent No.2 to restore status quo ante putting the applicant back in possession of the Government accommodation.

2. Notice was issued on this M.A. to respondent No.2 Dasti on 22.9.1995 returnable by 28.9.1995. When the application came up before the Bench on 28.9.1995, none appeared for the second respondent. The case was adjourned to this date. When the O.A. and the M.A. came up for hearing today, none appeared for respondent No.2 though the respondent No.2 has received notice. Respondent No.2 in the M.A. is allowed to be impleaded as additional respondent. Registry is directed to carry out this amendment by incorporating the name of the 2nd respondent in the cause title of the O.A.

3. As the O.A. itself is being disposed of finally by us, in view of the statement made by the learned counsel for the applicant and for the respondent No.1, no further interim order need be passed as prayed for in this M.A., since the prayer in this M.A. will be taken care of by us while moulding the relief in the O.A.

4. M.A. 2361/95 stands disposed of.

O.A. 1391/95

5. The applicant is a Junior Central Government Advocate, Litigation Section under the Ministry of Law and Justice. In this application the applicant has alleged that by letter dated 26.4.1995 issued by the Directorate of Estates, the 2nd respondent, he has been ^{informed that he was} transferred to Calcutta and that such an order of transfer has not been either served on him or brought to his notice except from the

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said letter of the 2nd respondent. The applicant has, therefore, filed this application praying that the transfer of the applicant to Calcutta as mentioned in the letter dated 26.4.1995 (Annexure A-1) may be quashed; that the respondents may be directed to release the payment of the applicant's salary w.e.f. 1.2.1995 to 31.7.1995; and that the respondents may be directed to retain the applicant at Delhi till the date of his superannuation. He has also sought for a relief that a direction may be given to the 2nd respondent not to dispossess the applicant of the quarter No. 16-Q, Block No.16 CPWD Quarters, Vasant Vihar, New Delhi.

5. The 1st respondent has filed a detailed reply statement. Though notice was served on the 2nd respondent, the 2nd respondent did not appear. When the case was taken up for considering the question of interim as prayed for in M.A. 2361/95, the learned counsel for the applicant Shri B. B. Raval and Shri Harishankar, proxy counsel for Shri Madhav Panikar for respondent No.1, stated the U.A. itself can now be disposed of. The learned counsel for the applicant stated that he is not pressing the relief for quashing the order of transfer. He stated that the applicant will be satisfied if respondent No.1 is directed to consider his claim for arrears of pay and allowances for the period between 1.2.1995 and 31.7.1995 within a short period and also to grant him the transfer advance and transfer TA advance in accordance with the rules, and in that event the applicant would

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immediately carry out the order of transfer by reporting at Calcutta. He further requested that for the purpose of carrying out the order of transfer, for packing and transporting his personal belongings from his quarters, the respondents may be directed to restore possession of the quarters No. 16-Q Block No.16, CPWD Quarters, Vasant Vihar, New Delhi to him and to allow him to retain^{it} for the minimum period required for carrying out the transfer. Shri Harishankar, proxy counsel for the 1st respondent, under instructions from the departmental representative, stated that as the applicant has agreed to carry out the order of transfer by reporting for duty at Calcutta, the 1st respondent has no objection in taking a decision on the claim of the applicant for arrears of pay and allowances and to consider his request, if made, for the transfer advance and TA advance, which, if admissible, would be released to him within a week from the date on which the applicant makes a written request in that behalf. As far as the relief prayed for by the applicant for restoration of the possession of the quarter, as the 2nd respondent did not in response to the Dasti notice take care to either appear in person or through an authorised representative, we could not get the response of that respondent. However, as the allotment of the quarter to the applicant was said to have been cancelled only on account of his ^{without notice to him} transfer, the interest of justice demands that the applicant should be allowed to be in occupation of the quarters to enable him to pack his belongings and transport the

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same to the place of his posting. It is also not shown that the applicant has been dispossessed of the quarters by following any procedure established by law.

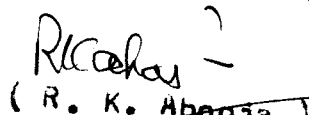
6. In the result, in view of the above stated development in the case and in view of the submission of the learned counsel for the applicant and for the 1st respondent, we dispose of this O.A. finally with the following declarations and directions :-

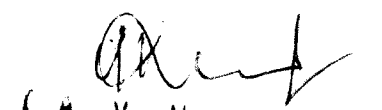
- (1) The prayer of the applicant for quashing the order of transfer is disallowed.
- (2) The 1st respondent is directed to consider the claim of the applicant for pay and allowances for the period between 1.2.1995 and 31.7.1995 put forth in sub-para (c) of paragraph 8 of the O.A., to take a decision in the matter and if the claim is found admissible, to make payment thereof within a period of two weeks from the date of communication of a copy of this order.
- (3) The applicant is directed to submit to the 1st respondent his written request for transfer advance and TA advance on the next working day after obtaining a copy of this order and if such a request is received in the office of the 1st respondent, the 1st respondent is directed to consider the request and disburse to the applicant whatever is admissible to him as per rules in that regard within a period of one week from the date of receipt of the request.

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- (4) To enable the applicant to pack his personal effects from the quarters No.16, Block No.16, CPWD Quarters, Vasant Vihar, New Delhi, the 2nd respondent is directed to put the applicant in possession of the said quarters forthwith (removing the lock if it had been locked under the instructions of the 2nd respondent) and to allow the applicant to continue in occupation till the applicant gives effect to the order of transfer by undertaking his journey to Calcutta immediately on receipt of the transfer TA advance; and getting accommodation in the conveyance for his journey.
- (5) The applicant is directed to take immediate steps the day next on which he receives the transfer TA advance to have his accommodation for the journey booked and to give effect to the transfer as expeditiously as possible, not there being any delay on account of his inaction in booking the ticket. He is also directed to give vacant possession of the quarters to the 2nd respondent as early as possible on getting the accommodation for his journey and transporting his personal effects.
- (6) There is no order as to costs.

A copy of this order shall be given to the applicant Dasti.


(R. K. Ahojja)
Member (A)


(A. V. Haridasan)
Vice Chairman (J)

/as/