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CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

O.A. No. 2309 of 1995

New Delhi this the 14th day of March, 1996

HON'BLE MR. K. MUTHUKUMAR, MEMBER (A)

Shri C.S. Rajput
R/o L-II/26-A,
DDA Flats,
Kalkaji,
New Delhi.

...Applicant

By Advocate Shri S.K. Gupta

Versus

Union of India through

1. Secretary,
Department of Revenue,
Min. of Finance,
North Block,
New Delhi.
2. Commissioner,
Customs and Central Excise Collectorate,
Central Revenue Building,
I.P. Estate,
New Delhi-110 002.
3. Development Commissioner,
NOIDA Export Processing Zone,
Ministry of Finance,
Government of India,
NOIDA Dadri Road PH-II,
NOIDA-201305. ..Respondents

By Advocate Shri S.S. Dabas

ORDER (ORAL)

Hon'ble Mr. K. Muthukumar

Heard the counsel for the parties. The pleadings are complete in this case and the issue involved being in a short compass, can be disposed of and accordingly is taken up for final disposal.

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2. The applicant originally joined the Indore (now Commissionerate) of Central Excise as an Inspector in 1972 and was promoted as Superintendent in 1977. In 1977 when the applicant was working in the parent department, he was transferred to the Directorate of Revenue Intelligence in ^{Delhi}. It is also an organisation under the first respondent. He was allotted a departmental pool accommodation ^{in Delhi} by the order dated 30.05.1977. The applicant worked in the aforesaid Directorate till 30.06.1992 and thereafter, he was transferred to his parent Collectorate under the respondent No.1 and joined the new post on transfer on 7.9.1992. The applicant, however, continued to retain this accommodation. Again in January, 1993, he was sent on deputation to the Noida Export Processing Zone (hereinafter referred to as 'NEPZ'). He continued to retain the departmental pool accommodation which was originally allotted to him when he was posted ^{Revenue} in the Directorate of Intelligence in his earlier assignment and on joining the NEPZ, he informed the respondent No.3 on 14.1.1993 (Annexure A-8), that he was occupying the departmental pool accommodation and while on deputation in the NEPZ, licence fee was allowed to be deducted at the normal rate since then. In July, 1995, the respondent No.2 addressed a letter to the applicant directing him to intimate whether he

continued to be employed in an eligible office in Delhi or has been transferred elsewhere and he was asked to give details of his relinquishment of the charge of the post held by him in Delhi and the period of leave availed of by him later consider on, in order to / his eligibility for continued retention of departmental pool accommodation. Apparently, the applicant did not reply to this letter. A copy of the aforesaid letter was also addressed to the Directorate of Revenue Intelligence office where the applicant was working previously prior to his transfer. On the basis of the correspondence from the Accounts Officer of the NEPZ, Ministry of Commerce, NOIDA, the second respondent had informed that the applicant did not come under the jurisdiction of the Commissionerate of Customs, New Delhi and, therefore, he should be directed to vacate the flat by 30.11.1995 as the flat stood cancelled in his name w.e.f. 4.3.1993 as per the allotment rules and that he was liable to pay damages at the rate of Rs.50/-sq.mt. per month. The applicant has annexed this communication in this application. Pending the filing of a short reply, an interim order was passed restraining the respondent No.2 from giving any further effect to the aforesaid letter impugned at Annexure A-1.

3. The respondents have subsequently filed a complete reply. In their reply, it has been averred that the applicant was relieved from the Directorate of Anti Evasion which was also under the respondent No.1 for joining his parent

Collectorate at Indore and the retention period of department pool accommodation on transfer from the eligible zone was only 2 months and the retention period thus expired on 30.08.1992 and no extension whatsoever was granted by the competent authority at any point of time after 30.08.1992. It has also been averred by the respondents that neither the applicant nor the office in which he was working had intimated about the reversion of the applicant to his parent Collectorate at Indore. It is also stated that the respondent No.2 was not aware that the applicant who was working under the Directorate of Anti Evasion was reverted to his parent Collectorate at Indore and, therefore, the applicant was requested to inform whether he continued to be employed in an eligible office. As there was no response either from the Department of Revenue or from the applicant, the impugned letter was issued. It has also been submitted in the counter-affidavit that the office of the NEPZ in which the applicant is posted on deputation on transfer from Indore from January, 1993, falls under the administrative control of the Ministry of Commerce and, therefore, the applicant is not eligible to continue in the departmental pool accommodation. In the light of these facts, the respondents have strongly resisted the application.

4. During the arguments, the learned counsel for the applicant fairly admitted that the applicant

has been posted as Superintendent (Customs) in the office of the NEPZ and the said Notification has been issued by the Ministry of Commerce and the applicant has been appointed from the aforesaid post on the deputation terms and conditions. From the aforesaid, it is fairly clear that the office to which the applicant has been transferred on deputation, does not fall within the eligibility offices to which the departmental pool accommodation could pertain. The learned counsel for the applicant has also produced during the hearing, the orders dated 5.12.1995 informing the applicant that no reply had been received to the earlier communication and there was no intimation about the vacation report and, therefore, the applicant has been informed by the aforesaid letter that suitable action will be taken to evict the applicant from the aforesaid quarter under the Public Premises (Eviction of Unauthorised Occupants) Act, 1971. The learned counsel for the applicant, however, states in all fairness that if the applicant is considered to be ineligible for continued retention of the departmental pool accommodation, he would be willing to vacate the quarter but he should not be charged any damage rent, as indicated in the impugned letter dated 30.10.1995, Annexure A-1.

5. Having heard the counsel for the parties and having perused the record, I find that the matter can be disposed of with the following

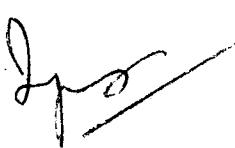
directions:-

(i) Since it is evident that the applicant is not eligible to retain the departmental pool accommodation on his transfer/ to the NEPZ and there is no authorisation for his retention of the said accommodation, the applicant is not eligible for the continued retention of the departmental pool accommodation and, therefore, has to vacate the aforesaid accommodation. The applicant is so directed and he shall vacate the accommodation within a period of 2 months from the date of the receipt of a copy of this order.

(ii) The period of unauthorised retention of the aforesaid accommodation will be assessed by the respondent No.2¹ ^{appropriate authority} who is, in-charge of the departmental pool accommodation

with reference to the date of transfer of the applicant from time to time outside the eligible office. It is open to the respondents to take such action, as may be appropriate for assessing/recovery of the damage rent, if any, under the provisions of law.

No costs.



(K. MUTHUKUMAR)
MEMBER (A)

RKS