

Central Administrative Tribunal
Principal Bench

O.A. 1119/96

New Delhi this the 15th day of February, 2000

(20)

Hon'ble Smt. Lakshmi Swaminathan, Member(J).
Hon'ble Shri R.K. Ahooja, Member(A)

R. Kapur,
S/o late Shri R.S. Kapur,
R/o 70, Paschimi Marg,
Vasant Vihar,
New Delhi-110 057. Applicant.

None present.

Versus

1. Director of Inspection Research,
Statistics, Publications and
Public Relations (Income Tax),
Mayur Bhawan, 6th Floor,
Behind Super Bazar,
Indira Chowk,
New Delhi-110 001.
2. Director of Estates,
Nirman Bhawan, Maulana Azad Road,
New Delhi.

By Advocate Shri S.M. Arif.

O R D E R (ORAL)

Hon'ble Shri R.K. Ahooja, Member(A)

The applicant retired from Government Service on 28.2.1986. At that time, he was in possession of a Government accommodation bearing Gr. No. 215, Rouse Avenue, New Delhi, allotted to him in 1985. The applicant, however, did not vacate the Government accommodation within the stipulated period. Thereafter, the matter was taken up by the Estate Officer to pass a final eviction order on 24.12.1986. Aggrieved by the said eviction order, the applicant filed a Writ Petition in the Delhi High Court and the said Court permitted him to vacate the said house on or before 31.8.1988. The applicant vacated the house, in question on 25.10.1988.

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2. In the meantime, as the applicant had not been released his gratuity, he filed O.A. No. 399/87 which was disposed of by an order dated 29.8.1991 by which the respondents were directed to pay the outstanding amount of DCRG to the applicant with interest @ 10% per annum for the period from 1.6.1986 till the date of actual payment. Certain directions were also given regarding adjustment of recoveries due from the applicant on account of unauthorised occupation of Government accommodation for a long period from 1.10.1979 to 12.11.1981. The applicant thereafter filed an SLP before the Supreme Court on the question of interest allowed by the Tribunal. The Supreme Court (Civil Appeal No. 6342/94) in its order reported in JT 1994 SC 354 enhanced the interest at the rate of 18%. However, the Supreme Court observed that this shall be without prejudice to the right of the respondents to recover damages under FR 45-A. The respondents calculated the additional interest due to the applicant at Rs.1,01,750/-. However, they deducted an amount of Rs.64057/- towards the arrears of rent recoverable from the applicant.

3. The applicant submits that there was no demand of the Director of Estate against him. Further, the payment of DCRG and the recovery of rent are two entirely separate matters and it is not for the respondents to make recoveries of rent for the period beyond the authorised period of allotment from the DCRG of the applicant.

4. Today when the matter came up, none has appeared for the applicant even on the second call. We notice that none has appeared for the applicant on the previous dates, that is on 20.12.1999 and 21.1.2000. Since this is a matter

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of 1996, we are disposing of the O.A. on the basis of the available pleadings and the arguments advanced by the counsel for the respondents under Rule 15 of the CAT (Procedure) Rules, 1987.

5. Rule 71 of the CCS (Pension) Rules, 1972 applicable in the present case reads as follows:

Recovery and adjustment of Government dues.

(1) It shall be the duty of the Head of Office to ascertain and assess Government dues payable by a Government servant due for retirement.

(2) The Government dues as ascertained and assessed by the Head of Office which remain outstanding till the date of retirement of the Government servant, shall be adjusted against the amount of the retirement gratuity becoming payable.

(3) The expression 'Government dues' includes-

(a) dues pertaining to Government accommodation including arrears of licence fee, if any;

(b) dues other than those pertaining to Government accommodation, namely, balance of house building or conveyance or any other advance, overpayment of pay and allowances or leave salary and arrears of income tax deductible at source under the Income Tax Act, 1961 (43 of 1961).

6. It is clear from the aforesaid Rule that dues pertaining to Government accommodation, including arrears of license fee, if any, can be recovered from the retirement gratuity of a retiring government employee. Further, the Supreme Court's order itself in Civil Appeal No. 6342/94, had authorised the respondents to make recoveries under FR 45-A. We noticed that the applicant had filed a Contempt Petition before the Supreme Court after the impugned order was issued but the same Contempt Petition was dismissed, leaving it open to the applicant to agitate the matter afresh before this Tribunal. We also noticed that the three judge Bench of the Supreme Court in the case of Union of India & Anr. Vs. K.

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Balakrishna Nambiar (AIR 1998 SC 2958) has held that no interest is payable to Respondent on account of delay in realisation of gratuity for the period of his unauthorised occupation of the Government accommodation. The same view was earlier enunciated by the Supreme Court in the case of **Rajpal Wahi Vs. Union of India & Ors.** (SLP No. 7688-91 of 1988) and **Union of India Vs. Ujagar Lal** (1997(II) L&J-981). If the DCRG can be withheld for non-vacation of Government accommodation, the respondents' right to make recoveries under Rule 71 of the CCS (Pension) Rules, 1965 would even further stand supported.

7. In the result, we find no illegality in the impugned order in making recoveries of arrears of rent from the applicant for Government accommodation from the interest payable to the applicant on the basis of the orders of the Supreme Court in Civil Appeal No. 6342/94. There is no merit in the O.A. and it is accordingly dismissed. No order as to costs.

Raoehas -

(R.K. Ahuja)
Member (A)

SRD

Lakshmi Swaminathan,

(Smt. Lakshmi Swaminathan)
Member (J)