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CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH

...

OA.No.1474 of 1996

Dated New Delhi, this 12th day of December, 1996.

HON'BLE SHRI A. V. HARIDASAN, VICE CHAIRMAN (J)

Kishor Kumar  
S/o Late Shri B. K. Verma  
R/o Quarter No.8-25/C-C, Type-II  
Kali Bari Marg  
NEW DELHI. ... Applicant

By Advocate: Shri A. K. Bhardwaj

versus

1. Union of India, through  
The Director General  
Department of Telecom  
Sanchar Bhawan  
NEW DELHI.
2. The Chief General Manager (NTR)  
Department of Telecommunication  
Kidwai Bhawan  
NEW DELHI.
3. The Estate Officer, NTR  
Office of the Chief General Manager  
Janpath  
C.T.O. Complex  
NEW DELHI.
4. The Asst. General Manager  
Office of the Chief General Manager (NTR)  
Eastern Court  
NEW DELHI. ... Respondents.

By Advocate: Shri M. M. Sudan

O R D E R (Oral)

Shri A. V. Haridasan, VC(J)

The applicant's father who was an employee of Telecom Department, was allotted a Government quarter No.8-25/C-C at Kali Bari Marg, New Delhi. The applicant's father was a victim of the dreadful disease Tuberculosis and so was his mother. The applicant who is only a Temporary Mazdoor, had

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5 applied for regularisation of the quarter in his name after the retirement of his father. Since he did not get a favourable decision from the respondents, he along with his father approached the Tribunal for appropriate direction. The application was disposed of, inter alia, giving a direction that the question of regularisation may be considered and determined by the respondents in accordance with law. However, before any decision was taken, though the applicant was appointed on a regular post and the respondents informed the applicant's father that the allotment of the quarter in the applicant's name would be considered when a quarter becomes next available, the promise was not given effect to. In the meanwhile, the applicant's father expired on 8.4.1995. The applicant continued to occupy the quarter. An order of eviction was passed against the father of the applicant by the Estate Officer and the Estate Officer sought for Police protection for evicting the unauthorised occupants including the applicant by the impugned order. The applicant has filed this application seeking to have the impugned order quashed and for a direction to the respondents to allot an admissible quarter to him in accordance with the promise contained in the letter dated 15.12.1994 and not to deduct any

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amount from the pay of the applicant in pursuant to their letters dated 2.7.1996 and 1.12.1995. The applicant denies liability to pay the penal rent which is sought to be recovered.

2. The respondents have not filed any reply though sufficient time was given to them. When the matter came up for hearing, it is reported that the applicant has since vacated the quarter. The learned counsel for the respondents states that he has got instructions from the respondents though reply could not be filed as yet. He states that the applicant is not entitled to have the quarter allotted as promised in the letter dated 15.12.1994 (Annexure A-16) because the said promise was made taking into account the fact that the applicant's father was afflicted by Tuberculosis and was alive. Now that after the applicant's father died the situation has undergone a change and the respondents are not bound by the promise. Regarding the allotment of a quarter in the name of the applicant, the learned counsel for the respondents argued that ~~the~~ <sup>applicant</sup> has to wait for his own turn. So far as the realisation of the arrears of licence fee/damage rent for the period of unauthorised occupation of the quarter by the father of the applicant <sup>is concerned,</sup> the learned counsel for the respondents states that the applicant himself

had written a letter (Annexure A-15) agreeing to remit an amount of Rs.17220/- (the rent of the quarter in question for the period during which the father was in unauthorised occupation) in monthly instalments of Rs.500/- and the last instalment of Rs.700/-.

3. The arguments of the learned counsel for the respondents that the situation having undergone a change respondents are not bound to allot a quarter to the applicant though they had made such promise in their letter dated 15.12.1994, has considerable force because it was written at a time when the father of the applicant who was suffering by Tuberculosis, was alive. Now that situation having undergone a change, particularly the father not being alive, the respondents are correct in contending that the need for allotment of the quarter out-of-turn to the applicant does not exist and that the applicant has to wait for his turn for allotment of a Government accommodation.

4. Now that the quarter in question has already been vacated by the applicant, what remains to be considered is only whether the respondents are justified in recovering penal rent for unauthorised occupation of the quarter. If any amount is due from the father of the applicant for unauthorised

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occupation, law does not provide for recovering the same from the pay and allowances of the son. It has to be recovered from the estate of the dead person in accordance with the rules. If the damages for the unauthorised occupation has snowballed into a larger sum after the death of the applicant's father, then again there is no provision to recover the sum from the pay and allowances of the applicant as the applicant has not been permitted to reside in the quarter.

5. In the light of what has been stated above, I dispose of the application restraining the respondents from making any recovery from the pay and allowances of the applicant by way of damage rent for the quarter in question. Recovery of damages for use and occupation of the father of the applicant has to be made from his estate, and for over stayal, if any, by the members of the family of the deceased from the concerned individuals in accordance with law.

There is no order as to costs.



(A.V. HARIDASAN)  
VICE CHAIRMAN(J)

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