

Central Administrative Tribunal
Principal Bench.

OA 1703/96
&
OA 1704/96

New Delhi this 4th day of September, 1996

Hon'ble Smt. Lakshmi Swaminathan, Member(J).

O.A. 1703/96.

SI Vijay Singh,
S/o Shri R.P. Singh,
R/o C-7, Type-III,
PS- Rajouri Garden,
New Delhi.

..Applicant.

By Advocate Mrs Meera Chhibber.

Versus

1. Union of India, through
Secretary,
Ministry of Home Affairs,
North Block,
New Delhi.
2. Dy. Commissioner of Police HQ III,
MSO Building, I.P. Estate,
New Delhi.
3. Assistant Director C-II,
Bureau of Investigation,
Level VIII, East Block VII,
R.K. Puram,
New Delhi.

..Respondents.

By Advocate Shri Arun Bhardwaj.

O.A. 1704/96.

SI Vijay Anand Sharma,
S/o Shri A.R. Sharma,
R/o F-6, Police Colony,
Mehran Nagar,
New Delhi.

..Applicant.

By Advocate Mrs Meera Chhibber.

Versus

1. Union of India,
through Secretary,
Ministry of Home Affairs,
North Block,
New Delhi.

2. Dy. Commissioner of Police HQ III,
MSO Building, I.P. Estate,
New Delhi.

3. Assistant Director C-II,
Bureau of Investigation,
Level VIII, East Block VII,
R.K. Puram,
New Delhi.

...Respondents.

By Advocate Shri Arun Bhardwaj.

ORDER (ORAL)

Hon'ble Smt. Lakshmi Swaminathan, Member(J).

As the facts and issues in both the aforesaid cases are similar, with the consent of the learned counsel for the parties they have been heard together and are being disposed of by this common order. However, for the sake of convenience, the facts in O.A. 1703/96 have been referred to.

O.A. 1703/96.

1. The applicant has challenged the order dated 3.6.1996 whereby the allotment of his quarter by the Delhi Police was cancelled w.e.f. 20.4.1996 as he had proceeded on deputation to the Bureau of Immigration on 20.2.1996. The applicant is aggrieved that the impugned order not only cancels the allotment of the quarter with retrospective effect but has also directed him to vacate the Government quarter on or before 20.4.1996 which is not possible, and also hand over the vacant possession from that date, failing which it has been stated that he would be liable to pay damage charges as licence fee besides other actions that may be taken against him under the Delhi Police Act, 1978.

2. Pleadings in this case are complete and the case is being disposed of at the admission stage itself. In the rejoinder filed by the applicant, the applicant has submitted that since they were not allowed to continue in the Government accommodation allotted to him, he had requested for permission to be repatriated to Delhi Police which has also been acceded to and he has, in fact, joined the respondents vide DD Entry No. 2.9.1996 OPL. In the circumstances, both the learned counsel agree that the question of vacating the Govt. accommodation previously allotted to the applicant, does not arise in this case. The only short question for consideration, therefore, is regarding ^{charging} of damage rent during the alleged period of ^{the} overstay when the applicant was on deputation from Delhi Police to Bureau of Immigration.

3. Mrs Meera Chhiber, learned counsel for the applicant, submits that as required under the provisions of Standing Order No.3/91 dealing with the subject of allotment of residential accommodation of Delhi Police Personnel and connected matters, the respondents have failed to stipulate the period for vacation of the Government accommodation on the applicant's deputation on 20.2.1996. She has also drawn my attention to the undertaking given by the applicant which has been filed by the respondents to the effect that the applicant would vacate the accommodation allotted by the Delhi Police on the availability of an alternative accommodation. She submits that there is no doubt that the applicant had a right to be allotted accommodation

from the office where he was deputed if they had the quarters. The applicant has also drawn attention to the general practice followed by the Police Department in these matters where it is alleged that deputationists to other Departments have been allowed to retain their accommodation/ and are required to pay only normal rent. In this connection, Mrs. Chhiber relies on a recent decision of the Supreme Court in S.C. Bose Vs. Comptroller and Auditor General of India & Ors., 1995 Supp (3) SCC 141, in which the Supreme Court held as follows:

"...we are of the view that since the officers were entitled to allotment of accommodation from the General Pool and they had to stay in accommodation from the Departmental Pool on account of non-allotment of the accommodation from the General Pool, the department was not justified in recovering penal rent and damages for occupying the accommodation from the Departmental Pool".

4. Shri Arun Bhardwaj, learned counsel for the respondents, has, on the other hand, submitted that since the applicant has now been repatriated to Delhi Police, the question of cancellation of the allotment of the quarter has now become redundant and /the question of levying damage rent has ^{a decision on} still to be taken by the respondents. He also relies on the judgement of this Tribunal in R.D. Sharma Vs. Union of India, 1989(1) SLJ (CAT) 61.

5. In the impugned order dated 3.6.1996, as already mentioned above, the respondents have not only directed the applicant to vacate the quarter on or before 20.4.1996 which is illegal as it is given with retrospective effect

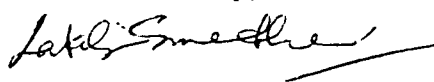
but they have also stated that he would be liable for damage charges as licence fee from that date. So far as the charging of damage rent from 20.4.1996 is concerned, this is not legally in order and hence the impugned order is quashed and set aside to this extent. Having regard to the submission made by the learned counsel for the respondents that in view of the recent order repatriating the applicant back to the Delhi Police, a view has yet to be taken on the question of charging penal rent, it is felt that it would not be necessary to make any comments on the merits in this regard at this stage, excepting that the respondents shall take an appropriate decision in the matter having regard to the relevant rules and the aforesaid decision of the Supreme Court.

6. O.A. is disposed of as above at the admission stage.
No order as to costs.

O.A. 1704/96.

For the reasons given above in O.A. 1703/96, the impugned orders dated 3.6.1996 and 31.7.1996 are quashed and set aside. The respondents to take further necessary action regarding charging of damage rent/licence fee in accordance with the rules, the decision of the Supreme Court(Supra) as also the observations made above.

2. O.A. is disposed of as above at the admission stage.
No order as to costs.


(Smt. Lakshmi Swaminathan)
Member(J)

'SRD'

