

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

Original Application No. 1746 of 1996

New Delhi, this the 10th day of February, 1998

Hon'ble Mr. N. Sahu, Member(Admnv)

(V)

Shri K.L.Tyagi S/o late Shri Ram Chandra Tyagi, Military Farms School & Research Centre, Meerut Cantt. Meerut (U.P.) - APPLICANT

(By Advocate Shri V.P.S.Tyagi)

Versus

1. Union of India through the Defence Secretary, Government of India, Ministry of Defence, New Delhi 110066
2. Deputy Director General of Military Farms, D.D.G.M. Army HQ, QMG's Branch, West Block, R.K.Puram, New Delhi - 110066
3. The Director Military Farms, Headquarters Central Command, Lucknow-2 (U.P.)
4. The Officer-in-Charge, Military Farms, Muarar (A.D.M.F.P.) Gwalior (M.P.)
5. The Commandant Military Farms, Science and Research Centre, Meerut Cantonment, Meerut, Meerut (U.P.) - RESPONDENTS

(By Advocate Shri K.C.D.Gangwani)

O R D E R

By Mr. N. Sahu, Member(Admnv) -

The grievance in this Original Application is directed against an order of the DDGMF Army Hqrs, QMG's Branch, West Block-III, R.K.Puram, New Delhi dated 18.6.1996 (Annexure-A). Under this order the applicant has been permitted to retain the accommodation at Meerut at normal rent only up to January, 1995. His continued stay thereafter has been treated as unauthorised and penal rent was directed to be charged with effect from February, 1995. The applicant retired on 31.8.1996. By the above order issued 2& 1/2 months before his

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retirement he was directed to vacate the quarter failing which action for eviction was proposed to be taken. The applicant states that he was permitted to retain Government accommodation at Meerut Cantonment up to 31.5.1995. He also got a posting at the same station though in a different department which is known as MF School and Research Centre, Meerut Cantonment. He was allotted an accommodation unsuitable to him in the latter posting. The present accommodation allotted to him which he continued to retain was below his entitlement and he held the same even before his promotion as Office Superintendent.

2. The important ground raised by the applicant is that the respondents have accommodated staff working in the other organisation in the area in which the applicant is accommodated. He claims that the accommodation allotted to the predecessor of the applicant was deliberately allotted to one Harish Kumar, Stenographer Grade-II to Director General having lesser pay than the applicant. In view of the above it is submitted that the respondents should regularise his continuous stay in the old quarter and penal rent charged since May, 1995 should be cancelled.

3. The respondents after notice state that there are two distinct organisations located at Meerut belonging to the army. One is Military Farm Meerut Cantonment and another is Military Farm School & Research Centre, Meerut. The latter

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establishment is having its own staff separately and is having residential accommodation of its pool. The applicant was initially posted at Roorkee under the administrative control of Military Farm Meerut and was further transferred from Roorkee to Gwalior on 28.9.1993. He was accordingly provided residential accommodation at Military Farm Meerut. He was liable to vacate the accommodation at Meerut on his transfer to Gwalior by the end of 1993 or he had the option to extend it upto the end of academic session, namely, April-May, 1994. The competent authority permitted him to retain this accommodation up to 31.1.1995 on payment of normal rent. In fact the permission to retain the accommodation up to 31.5.1995 was subsequently superseded by the DDGMF's letter dated 16.12.1994 and 18.6.1996. According to the respondents the applicant deliberately retained the accommodation with the hope of an ex-post facto regularisation. The respondents accordingly charged at the rate of Rs.40/- per sqr meter of built up area over and above the permitted period. They also state that on his transfer to Military Farm School and Research Centre he was allotted Government accommodation in this Centre by an order dated 6.5.1995. The MF Meerut quarter occupied by the applicant is not under the administrative control of the Commandant, Military Farm School & Research Centre but it is under the administrative control of another hierarchy. The type of quarter allotted to him by the School & Research Centre was the same type as he was in occupation at Meerut Cantonment. This was within the campus of his duty place. It is

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also alleged that the MF department has never withheld the pay of the applicant. He has refused to accept the pay because of the order of recovery. It is also stated that only 2 units of accommodation were lying vacant at the time of arrival of the applicant at the School and Research Centre on 2.5.1995. One quarter was earmarked for an officer and the other was meant for an employee of a Group 'C' staff. The quarter allotted to one Shri R.C.Tyagi was meant for a senior Government employee of the rank of a Manager and temporarily detailed for some specialised job in Military Farms department.

4. The applicant's claim is that the quarter so allotted to him in the School & Research Centre was unsuitable and was lying vacant for a pretty long time. A more suitable quarter was allotted to a junior official. By an undertaking dated 5.10.1994 the applicant was supposed to vacate the accommodation at Meerut Cantonment only by 31.5.1995. It was also directed that he shall be charged normal rent. The applicant remained on temporary duties and on frequent visits as shown at Annexure R-8 to the reply. The Headquarter during this temporary duty was bound to be at Meerut Cantt.

5. After going through the correspondence and particularly the undertaking of the applicant dated 5.10.1994 annexed with Annexure- R-3 and the orders issued thereon I hold that the respondents have permitted him to retain the accommodation at Meerut

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Cantt upto 31.5.1995. The question at issue is whether to treat the accommodation beyond 1.6.1995 till his retirement on 31.8.1996 as unauthorised occupation. I have been shown at the time of hearing the temporary movement order dated 26.8.1995 for the period from 3.5.1995 to 26.7.1995. I have also been shown another movement order dated 9.3.1996 for the period from 28.9.1995 to 6.3.1996. The applicant has addressed a representation to the Commandant, MFS & Research Centre dated 9.5.1995 requesting for allotment of a quarter that is in accordance with his status and entitlement. He also brought to the notice that one Type-B quarter no.2 of the Centre's pool is lying vacant for more than one year and this quarter was earlier allotted to one Shri O.P.Yadav, Manager. The quarter allotted to him, namely, quarter no.60 was below his entitlement. There was a prompt reply by Annexure-A-15 dated 7.6.1995 directing the applicant to vacate the Farm accommodation occupied by him. On 9.1.1996 he made a further prayer for a suitable accommodation.

6. I am of the view that when the applicant had been ordered to vacate the accommodation at MF Meerut and when he refused to do the same he committed an act of disobedience to orders by the competent authority. They are perfectly within their rights to direct vacation of the quarter at Military Farm Cantt. Meerut. Subsequently, the

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quarter allotted to him was admittedly of a lower type and not of his entitlement. The order of the respondents dated 7.6.1995 reads as under -

"However you should allot vacant accommodation available with MF School after keeping Officers house reserved i.e. one each for DAD, DAC, Farms officer, Offg Comddt Other suitable vacant houses if any be allotted to the Office Supdt/Manager."

7. In view of the fact that this order shows that the existing accommodation allotted to him was admittedly below his entitlement he was within his rights to protest against the said allotment. Even so, the refusal to vacate the earlier quarter calls for an appropriate response. In the circumstances of the case I would direct the respondents to levy the rent of 2 times the normal licence fees for 4 months after 1.6.1995 and thereafter they shall levy 4 times the licence fees till his vacation. This is in accordance with the orders of permitted overstaying of Director of Estates under the Ministry of Urban Development. The applicant was posted only to a different establishment within Meerut; he was not given an accommodation suited to his pay and rank. It was not as though that he was continuously staying within the campus. He had been frequently sent out for temporary duty. He has brought the difficulties and also impropriety of allotting a lower accommodation to the notice of the authorities. It is in this view of the matter that this is not a case of unauthorised occupation but a

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case of over stay which deserves to be regularised
as per rules. The O.A. is disposed of. No costs.

Tharashankar
(N. Sahu) 10/21/98
Member (Admnv)

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