

(17)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH  
NEW DELHI

OA 2071/1996

New Delhi this the 9th day of September, 1997

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

Shri R.D. Sagar,  
S/O Shri Maha Ram  
R/O 488/S-V, M.B. Road,  
New Delhi.

... Applicant

(None for the applicant )

Vs.

1. Union of India through the  
Director General of Audit(P&T)  
Sham Nath Marg, Delhi-54
2. The Assistant Director of Estates,  
Director of Estates,  
TB ( R-1 Section),  
Nirman Bhawan, New Delhi.

(By Advocate Sh.M.M. Sudan )

... Respondents

O R D E R (ORAL)

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

The applicant has challenged the vires of the orders passed by Respondent No. 2 on 26.10.95 and the notice <sup>of</sup> demand dated 2.8.96, whereby allotment of the General Pool Accommodation to the applicant has been cancelled and demand of Rs 43981/- has been made for the occupation of the quarter after the applicant was transferred from Delhi to Calcutta. The applicant has submitted that these orders are arbitrary and illegal.

Tribunal's

2. It is seen from the orders that on a number of occasions, none has been appearing on behalf of the applicant, and even on 8-9-97 proxy counsel for the applicant had appeared and sought a day's adjournment. I have waited till 12.30 PM and none <sup>has</sup> appeared on behalf of the applicant, even though the case has been called out twice. In the circumstances order is being passed on the basis of the pleadings and after considering the

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submissions made by Shri M.A. Sudan, learned counsel for the respondents.

3. It is an admitted fact that the applicant had been allotted Govt. quarter No.488/Sector-V,M.B.Road, New Delhi in 1989. On 28.6.94, the applicant was transferred to Calcutta. The respondents have submitted that in accordance with SR-317-B-11, the respondents had allowed the applicant to retain the quarter for two months and thereafter the same was cancelled w.e.f. 28.8.94. The applicant had applied for further retention of the quarter beyond 28.8.94 on educational grounds <sup>of his children's</sup> but he did not enclose any certificate in support of his request. Learned Counsel for the respondents, however, submits that this application for further retention of the quarter was submitted by the applicant only after he was reposted in Delhi on 31.8.95. The applicant has requested for regularisation of the quarter after reposting in Delhi on 31.8.95. This has not been acceded to by the respondents on the ground that he does not fulfil the criteria for such regularisation on his reposting in terms of O.M. dated 24.10.1985. In the rejoinder the applicant has annexed a copy of his letter dated 9.3.95 where reference has been made to an earlier application dated 8.12.94, seeking permission for retention of the Genl.Pool Accommodation at Delhi. From this letter it is, therefore, seen that the applicant had apparently not informed the respondents or sought their permission to retain the quarter on his transfer to Calcutta nor was he given permission to retain the quarter for the period of his posting at Calcutta. It is also relevant to note that the Tribunal by order dated 17.10.96 had not granted any stay against eviction proceedings after hearing the

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learned counsel for the applicant.

4. In the facts and circumstances of the case, the impugned order passed by the respondents dated 26.10.95, cancelling the allotment of the quarter earlier allotted to him, cannot be stated to be in contravention of

SR 317-B-11. The plea that the impugned order is arbitrary and illegal is without any basis and it is, therefore, rejected. In view of the above, the demand for payment of the due rent for the period of unauthorised occupation of the quarter cannot be held to be illegal or against the rules and this plea is also rejected.

5. However, before parting with this case I may only add that the recovery of the penal rent for the un-authorised occupation may be considered sympathetically and it may be done in easy instalments, if such request is made by the applicant to the competent authority.

*fails and is*  
D.A. disposed of as above. No order as to costs.

*Lakshmi Swaminathan*  
(Smt. Lakshmi Swaminathan)  
Member (J)

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