

CENTRAL ADMINISTRATIVE TRIBUNAL
Principal Bench

O.A. No. 2356 of 1996

New Delhi, dated the 30th June, 1997

HON'BLE MR. S.R. ADIGE, MEMBER (A)

Shri Tara Chand,
R/o 49/96, LNJP Hospital,
New Delhi.

..... APPLICANT

By Advocate: Shri S.C.Jain

VERSUS

1. Lt. Governor through
the Chief Secretary,
Govt. of NCT of Delhi,
5, Sham Nath Marg,
Delhi.
2. Secretary,
Medical,
Govt. of NCT of Delhi,
Delhi.
3. PHC/Jt. Secretary (M-II),
Govt. of NCT of Delhi,
1, J.L. Marg,
New Delhi.

..... RESPONDENTS

By Advocate: Shri B.S.Gupta

J U D G M E N T

BY HON'BLE MR. S.R. ADIGE, MEMBER (A)

Applicant impugns the order
cancelling allotment of quarter No. 49/96,
LNJP Hospital, New Delhi in his name w.e.f.
23.5.91, the order dated 22.4.96 (Ann. A-1)
and the order dated 30.9.96 (Ann. A-2) and
prays that he be allowed to retain Qr. No.
49/96 LNJP Hospital, New Delhi till he is
allotted alternative accommodation.

2. Applicant was appointed as Mate (Class IV), LNJP Hospital on 29.12.71 and was allotted the said Type I Quarter. Subsequently he was promoted as LDC and posted in the same Hospital w.e.f. 10.4.91. Thereafter by order dated 20.6.91 (Ann. A-5) he was transferred to Directorate of Employment and that he is liable to pay damages w.e.f. 23.5.91 onwards. He states that he represented against the order dated 22.4.94, but received no reply and in meantime Respondents by their letter dated 30.9.96 have directed recovery of market rent w.e.f. 23.5.91 to 31.8.96 of Rs.58,117/- and from 1.9.96 onwards @ Rs.1029/- p.m. till vacation of quarter by him.

3. Applicant was allotted the quarter in question while working in LNJP Hospital. This allotment is governed by the Allotment of Residences Rules, 1977 (Ann. R-1). Applicant has contended in his rejoinder that these rules are illegal and without jurisdiction but the rules themselves have not been impugned in the O.A. and such a plea cannot be taken in rejoinder in which respondents are given no opportunity to reply. As per these Rules applicant could retain this accommodation only for two months beyond the date of his transfer to Dte of Employment, vide Rule X (Page 8) of those Rules. As the Rules themselves prescribed the period of authorised retention, any retention beyond the authorised period is clearly unauthorised and no separate show cause notice for vacation of the premises is

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necessary. It is also well settled that no Govt. servant has an enforceable legal right for allotment of Govt. accommodation and under the circumstances respondents are not compelled to provide applicant alternative accommodation to enable him to vacate Qr. No. 49/96, LNJP Hospital. Applicant's counsel have relied on the judgment dated 18.12.91 in O.A. No.1963/91 Jaim Ram Yadav Vs. UOI but that judgment was delivered in the facts and circumstances of that particular case^{and} does not lay down any law. In this connection, it must further be remembered that just as the quarter No. 49/96 LNJP Hospital was allotted to applicant when he was on the staff strength of the LNJP Hospital, now that he is no longer on their staff strength and in fact has not been on their staff strength since 1991 itself, he was required to vacate it then itself to enable it to be allotted to another LNJP Hospital staff member, and applicant has no legal right to claim that he cannot be compelled to vacate the premises till alternative accommodation is provided to him.

4. Under the circumstances applicant's prayer to be allowed to retain Qr. No. 49/96 LNJP Hosptial, New Delhi till he is allotted alternative accommodation is dismissed. In so far as penal rent/damages etc. for retention of the said Quarter beyond the authorised period is concerned, respondents will be entitled to recover the same in accordance with rules.

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5. This O.A. is disposed of in terms of
Para 4 above. Interim orders if any are
vacated. No costs.

Adige
(S.R. ADIGE)
Member (A)

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