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Central Administrative Tribunal
Principal Bench.

O.A. No. 876/96

New Delhi this the 7th day of October, 1996

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

Kumari Aparna Sarkar,
D/o late Shri A. Sarkar,
R/o Qr. No. 52/4C/Sec-2, DIZ Area,
Gole Market,
New Delhi.

...Applicant.

By Advocate Shri T.C. Aggarwal.

Versus

Union of India, through

1. Director of Estate,
Nirman Bhavan,
New Delhi.
2. Secretary,
Ministry of Power,
Shram Shakti Bhawan,
New Delhi.

...Respondents.

By Advocate Shri M.K. Gupta.

O R D E R

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

1. The applicant has filed this application under Section 19 of the Administrative Tribunal's Act, 1985 and her main prayer is to regularise the quarter in her name. The second prayer of the applicant is to quash the letter dated 21.3.1996 regarding charging of penal rent for the period of over stay in the quarter beyond 4.11.1995.

2. The respondents have filed their reply opposing the regularisation of the quarter in the name of the applicant as not being covered under the relevant O.M. dated 19.11.1987.

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3. From the rejoinder filed on 22.8.1996 and the additional affidavit filed on 23.9.1996 by the applicant, it is seen that the applicant has now undertaken to vacate the Government accommodation which was earlier allotted to her father, who has since passed away on 4.11.1994. Therefore, the issue raised in the O.A. for regularisation of the quarter does not survive as the applicant herself undertakes to vacate the quarter. However, it is seen that the applicant has failed to give a date when she would vacate the quarter in the affidavit although in the rejoinder she submits that she will be able to take possession of the flat owned by the deceased father by 31.10.1996. In the facts and circumstances of the case, the prayer for regularisation of the quarter is infructuous and is accordingly rejected.

4. Taking into account the facts and circumstances and the undertaking given by the applicant, she is directed to hand over vacant possession of the Qr. No. 52/4C/Sec-2, DIZ Area, Gole Market, New Delhi to Respondent 1 on or before 1.11.1996.

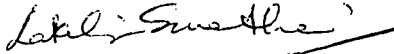
5. With regard to the payment of rent as demanded in the letter dated 21.3.1996, Shri M.K. Gupta, learned counsel for the respondents, has correctly pointed out that the amount recoverable includes the amount due for certain periods in 1992 and 1993, i.e. prior to the death of the applicant's father on 4.11.1994. These amounts would, therefore,

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be payable in accordance with the rules and they are not penal rent.

6. Since the applicant has admittedly stayed in the quarter beyond the permissible period under the relevant rules, SR 317-B-22 of the Allotment Rules, i.e. beyond 4.11.1995, she would be liable to pay arrears of rent at damage ^Brate with effect from that date, i.e. with effect from the date of the cancellation, as well as arrears prior to 4.11.1995 as due from the applicant's late father. The judgement of the Supreme Court in Vinod Krishna Kaul, Indian Police Service (Retd.) Vs. Union of India and Ors. (1996(32) ATC 193) relied upon by the applicant will not apply to the facts in this case as that case did not deal with the question of regularisation. For the period of over stay in the quarter beyond the permissible period w.e.f. 4.11.1995, the applicant would be liable to pay penal/damage rent at the rates as prescribed under the rules.

7. In the result, this application fails and is accordingly dismissed/ subject to the directions in para 4-6 above. No order as to costs.


(Smt. Lakshmi Swaminathan)
Member(J)

'SRD'