

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL NEW DELHI

O.A. No. 1443/97
T.A. No.

199

DECISION

DATE OF DECISION 16.10.1997

R.S. Rana

Petitioner

Shri R.L. Sethi

Advocate for the Petitioner(s)

Versus

UOI & Anr.

Respondent

Shri V.K. Rao

Advocate for the Respondent(s)

CORAM

The Hon'ble Mr. S.P. Biswas, M(A)

The Hon'ble Mr.

1. To be referred to the Reporter or not? Yes.
2. Whether it needs to be circulated to other Benches of the Tribunal?

(Signature)
(S.P. Biswas)
Member (A)
16.10.97

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CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.1443/1997

New Delhi, this 16th day of October, 1997

Hon'ble Shri S.P. Biswas, Member(A)

Shri R.S. Rana
Qr.No.1, Type III
Krishi Niketan, Paschim Vihar
New Delhi-110 063 .. Applicant

(By Advocate Shri R.L. Sethi)

versus

Union of India, through

1. Secretary
ICAR, Krishi Bhavan
New Delhi

2. Director
IASRI, ICAR
Pusa, New Delhi-12 .. Respondents

(By Advocate Shri V.K. Rao)

ORDER(oral)

The applicant, a retired Administrative Officer of the ICAR, was occupying Qr.No.1 (Type III) under the pool of residences controlled by the respondents. He retired from service on 31.1.97 and vacated the quarter ultimately on 4.10.97. Heard rival contentions of both the parties.

2. The short issue for determination is whether it is mandatory for the allotment authority to grant retention for the second spell from 31.5.97 onwards. The applicant has approached this Tribunal in a second round of litigation after having agitated the case regarding the aforesaid retention in OA 790/97 decided on 23.5.97.

That OA was decided with the following order:

".....after hearing both, the applicant is directed to submit his representation to the competent authority within a period of three days from today, namely, on or before 26th May, 1997. The competent authority shall decide on this representation for extension of stay in the quarter within a period of five days, on or before 31.5.1997. If the competent authority rejects his case for continued occupation, the applicant shall vacate the quarter within ten days from 31.5.97, namely, 10th of June, 1997."

(emphasis added)

3. The above orders do say, in specific terms, that the applicant shall vacate the quarter on 10.6.97. The applicant was given an opportunity to approach the respondents within a period of 3 days. Accordingly, he made a representation on 23.5.97 highlighting the medical grounds of his wife for which he had sought retention for another four months after having enjoyed the first spell of four months on payment of normal licence fee under FR 45(A).

4. The position of the rule in this respect is available in Rule 24 of ICAR Hqrs.(Allotment of Residences) Rules, 1981. That Rule says that in special circumstances, i.e. educational/medical grounds, the allottee may be allowed to retain the quarter by the Director General on payment of twice the normal licence fee. It is a matter of discretion on the part of the executive authority, to be exercised in the background of facts and circumstances of each case. Learned counsel for the applicant then argued that the applicant has been forced to face hostile discrimination in that others, similarly placed, have been allowed to enjoy the facility. He has given a few specific examples.

5. In the counter, the learned counsel for the respondents submits that the application has no merit on account of the following:-

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(i) it is essentially a case of contempt against the applicant as he has come over to the Tribunal having not obeyed its order dated 23.5.97. As per that order the applicant was to vacate the quarter by 10.6.97 and that order has not been complied with; and

(ii) the relief prayed for would show that the application has become infructuous because of the fact that he has since vacated the quarter on 4.10.97.

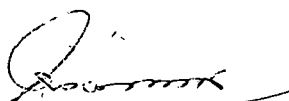
6. The fate of the present case hinges on application of Rule 24 dealing with issues like overstayal in Government residences after cancellation of allotment. The original allotment was cancelled on 31.5.97 and that was not followed by second spell of retention by a specific order whatsoever. Such additional retention cannot be claimed as a matter of right. Nor the precedents are binding. Law is well settled that the Tribunal cannot interdict administrative orders taken on valid grounds with reasons having been recorded and substitute its views. I find respondents have taken actions strictly in terms of decisions given by this Tribunal. I do not see any valid ground, much less convincing ones, to interfere in the matter. The application deserves to be dismissed and I do so accordingly.

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7. This order, however, does not prohibit the respondents to settle the residual portion of retirement dues, if any. Learned counsel for the applicant says that an amount of Rs.5,000/- is still due from the respondents. This Tribunal is not aware of the exact amount with details nor this issue has been agitated separately. We leave it to the respondents to take a view in the matter and the dues, if any, be paid after adjusting recovery of licence fee etc. on account of alleged overstayal and other reasons.

8. The application is disposed of as aforesaid. No costs.


(S.P. Biswas)
Member(A)

/gtv/