

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

NEW DELHI

O.A. No. 2435/97
T.A. No.

8

DATE OF DECISION 26-06-2000

N. K. Agarwal Petitioner(s)

Suri T. D. Yadav + Suri S. S. Tiwari Advocate for the
Petitioner(s)

Versus

Union of India Respondents

Shri Harvir Singh Advocate for the
Respondent(s)

CORAM:

Hon'ble Dr. A. Vedavalli, Member(J)

1. Whether Reporters of local papers may be allowed to see the Judgement?
2. To be referred to the Reporter or not ? *Yes*
3. Whether their Lordships wish to see the fair copy of the Judgement?
4. Whether it needs to be circulated to other Benches of the Tribunal?

Av
(Dr. A. Vedavalli)
M(J)

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**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH : NEW DELHI**

O.A. No. 2435 / 1997

New Delhi, this the 26th day of June 2000

HON'BLE DR. A. VEDAVALLI, MEMBER (J)

Sh. N.K. Agarwal,
s/o. Late Sh. O.P. Agarwal
aged about 36 years
r/o. M.E.S. 10/7, Defence Lab Quarters,
Jodhpur.
And working as Scientist D,
in Defence Laboratory, Ratanada Palace, Jodhpur,
under M/o. Defence. **Applicant**

(By Advocate Sh. T.D. Yadav and Sh. S.S. Tiwari)

VERSUS

- 1) Union of India through,
Secretary,
Ministry of Urban Development,
Nirman Bhawan, New Delhi.
- 2) Assistant Director of Estates (A/C)
Directorate of Estates,
Nirman Bhawan, New Delhi.
- 3) The Junior Engineer,
C.P.W.D. Service Center,
opposite Tagore Road Hostel,
New Delhi. **Respondents**

(By Advocate Sh. Harvir Singh proxy
for Mrs. P.K. Gupta)

O R D E R

The applicant, Shri N.K. Agarwal, a Scientist working in the Defence Lab in Jodhpur was earlier working in New Delhi. While he was working in New Delhi, he was allotted Government quarter in Minto Road Hostel, by Respondents on 3.7.1992. He took possession of the same on 29.7.1992. He was transferred to Jodhpur and was relieved on 3.2.1995. The allotment of the aforesaid quarter was cancelled in his name w.e.f. 3.4.1995 by the Respondents by letter dated 20.12.1995 (copy not filed). On 4.4.1997, a notice under Section 7(iii) of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 (the first impugned order) was

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issued to the Applicant (Annexure A) calling upon him to show cause on or before 28.4.1997 as to why an order for payment of Rs. 17,361/- as damages with interest for unauthorised occupation during the period 3.4.1995 to 14.9.1995 should not be made against him. He submitted a representation dated 22.4.1997 (page 20 of the paper book) to the Respondents. The said representation was rejected by the Respondents vide the second impugned order dated 22.8.1997 (Annexure A) and the applicant was asked to arrange for remittance of a sum of Rs. 17,361/- towards charges for over stay in the aforesaid Government quarter.

2. The reliefs sought by the applicant in this OA are as under:

a) Set aside and quash the impugned orders dated 4.4.1997 and 22.8.1997.

b) Direct the respondents to charge normal rent till 17.2.1995 the day the electricity connection was disconnected by DESU and that the possession was deemed to have been given to the Respondents on 17.2.1995.

c) Pass any other order/s as this Hon'ble Tribunal may deem fit and proper under the circumstances of the case.

d) Award costs.

3. The OA is contested by the Respondents who have filed their counter. However, no rejoinder has been filed by the applicant.

[Signature]

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4. Heard the learned counsel for both the parties. Pleadings and the material papers and documents placed on record have been perused.

5. Learned counsel for the applicant, Shri S.S. Tiwari, contended that it is the Respondents who refused to take the possession of the government quarter inspite of his request in the absence of "No dues Certificate". The applicant is not responsible for the Delay by DESU and possession should have been taken by the Respondents as soon as he requested them to take charge. Hence, he is not responsible for the delay and neither he is an unauthorised occupant. It was further contended that the action of the Respondents is arbitrary and illegal and the second impugned order rejecting his representation is non speaking and is not in accordance with law and prayed that the impugned orders may be quashed and set aside and the OA to be allowed. Learned Proxy counsel for the Respondent's counsel, Shri Harvir Singh submitted in reply that as per the Allotment Rules, the occupant of a Government quarter is liable to pay damages from the date of cancellation to the date of vacation of the quarter. It was contended by him that it is for the allottee to hand over vacant possession of the premises to the CPWD and, therefore, it was for the applicant to sort out the dispute with DESU. He further submitted that applicant, thus, is liable to pay damage rent from 3.4.1995 to 14.9.1995 i.e. from the date of cancellation to the date of actual vacation of the Government quarter. He further submitted that as the



action of the Respondents is in accordance with the Allotment Rules, it is valid in law and is not liable to be set aside. He prayed for dismissal of the OA, with costs.

6. I have given my careful attention to this matter. as noted (Supra), the applicant was transferred to Jodhpur and relieved on 3.2.1995. He requested the Respondents to take over possession of the Government quarter vide his letter dated 2.3.1995 (Compilation II Annexure B). He had also given an undertaking in the said letter that he will pay the electricity bill whenever DESU gives him the concerned bill. He has also put the Respondents on notice that if they fail to take possession of the house at the earliest, he will not be responsible for any delay in handing over the quarter. In a subsequent letter dated 19.5.1995 submitted to the Respondents also (Annexure B). In the counter filed by the Respondents as to the specific provisions of the Allotment Rules under which they can refuse to take over possession on the ground that "No dues Certificate" is not submitted by the allottee where vacant possession of the quarter is handed over to them. Even when the learned proxy counsel for the Respondent's counsel was asked during the hearing to show whether there is any such rule to the Allotment Rules, he could not pin point any such rule. The Respondents have also not given any answer as to why a Government servant who is very much in service has submitted an undertaking to pay the electricity bill when furnished by DESU, vacant possession of the

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4. quarter was not taken by them subject to the payment of Government dues, if any, from him. Nothing prevents them from recovering any amount which is due from the applicant from his salary as he is very much in service. Even the second impugned order dated 22.8.1997 (Annexure A) is a routine and cryptic reply to the applicant's representation dated 22.4.1997. Absolutely no reasons or even a reference to the specific legal provisions, if any, have been given in the said order by the Respondents. It is quite evident that the Respondents have acted in a very arbitrary and high handed manner in levying the damage rent for the alleged unauthorised occupation/overstay on the applicant and in rejecting his representation in a summary fashion. The above action of the respondents which apparently is without any authority of law has caused considerable harassment to a Government servant who has duly handed over vacant possession of the house within the prescribed time and has also resulted in unnecessary delay in allotting the said quarter to some other eligible Government servant who may be patiently awaiting his turn for allotment of Government accommodation.

7. In the facts and circumstances of this case and in view of the foregoing discussion, the impugned orders dated 4.4.1997 and 22.8.1997 are quashed and set aside. The Respondents are directed to charge only the normal rent on the applicant till 2.3.1995 i.e., the date on which he offered the vacant possession of the Government quarter to the Respondents.

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Order accordingly. No costs.

A. Vedarathi

(DR. A. VEDAVALLI)
MEMBER (J)

Mittal