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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

O.A No. 2632/97 and 2633/97

New Delhi this the 30 Day of April 1998

Hon'ble Shri R.K. Ahooja, Member (A)

O.A. No. 2632/97

Shri K.K. Sharma,
Flat No. 13 (MIG) Block No. 11-B,
Sector 18, Rohini,
Delhi-110 085

✓ O.A. No. 2633/97

Shri T.K. Biswas,
Son of late Shri S.N. Biswas,
R/o Quarter No. 37, Pocket 1/1,
Sector 16, Rohini,
Delhi-110 085.

Petitioner

(By Advocate: Shri Sohan Lal)

-Versus-

1. Union of India,
through its Secretary,
Ministry of Urban Development
and Employment,
Nirman Bhawan,
New Delhi.
2. Director General of Works,
Central Public Works Deptt.
Nirman Bhawan,
New Delhi.
3. The Executive Engineer,
Construction Division No. 4,
C.P.W.D, Pusa,
New Delhi-110 012.
4. Govt. of N.C.T of Delhi,
through its Chief Secretary,
5 Sham Nath Marg,
Delhi.

Respondents

(By Advocate: Shri KCD Gangwani)

ORDER

The issue in both the OAs being the same, they are
both being disposed of by this common order.

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2. The applicants in both the OAs were working as Junior Engineers in CPWD when they were transferred to Delhi PWD. Before their transfer they had been allotted accommodation from the Maintenance Pool meant for the essential staff at their respective place of posting. On their transfer to Delhi PWD, they were asked to vacate the accommodation allotted to them from the Maintenance Pool of CPWD. They represented that they should be allowed to retain the CPWD accommodation till such time they are allotted alternate accommodation by the Delhi PWD. The respondents, however, did not agree to their requests and the applicants were asked to pay damage rent of Rs. 1208/- per month w.e.f. 9.6.95 to 15.3.1997 amounting to Rs. 25,591/-.

3. The applicants, however, contended they were liable to pay only the normal rent which according to them was Rs. 525/- including HRA of Rs. 450/-.

4. Aggrieved by the order of the respondents to charge the penal rent, the applicants approached this Tribunal in O.As No. 1724/96 and OA No. 1723/96 were disposed of with the following directions:

"Hence this application is disposed of finally with a direction to the respondents 1 & 2 to endeavour to allot a quarter to the applicant as early as possible according to the rules and the ground situation, and the respondents 3 & 4 to allow the applicant to stay in the accommodation in which he is presently living for a further period of three months from today. They should also, taking into account the fact the applicant has not been allotted an accommodation by the respondents 1 & 2 and keeping that in view, fix the license fee or rent payable by them as per the rules. No order as to costs."

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5. The applicants are now aggrieved that the respondents have started the recovery of penal rent amounting to Rs. 25,591/- for the period upto 15.3.97 when they vacated the CPWD accommodation. This they say is contrary to the directions of the Tribunal quoted above in OA No. 1724/96 as well as the ratio of the decision of this Tribunal in OA No. 1960/98 wherein it was held that the respondents could not recover the penal rent from the applicant therein when he had not been allotted alternate accommodation.

6. The respondents in their reply have stated that the directions of the Tribunal in OA No. 1724/96 and 1723/96 was that rent may be recovered as per rules. Since the applicants had over stayed, under the rules they are liable to pay the penal rent.

7. I have heard the counsel. The learned counsel for the applicant has raised a law point which I consider settles the issue at the very outset. The applicants had gone before the Tribunal in OA No. 1724/96 and OA No. 1723/96 not only with the plea that they should be allowed to continue in the CPWD accommodation but also that the respondents should charge only the normal rent instead of the market rent. In fact, they had impugned the letter issued by the 3rd respondent dated 13.6.1996 addressed to the Executive Engineer, PWD, Delhi Administration to recover from the pay of the applicant market rent @ Rs. 1208/ per month

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and to remit the same to the 3rd respondents. The Tribunal after considering the prayer of the applicant had observed in para 6 of its order as follows:

"The claim of the applicant that he should be allowed to continue in the quarter on payment of normal license fee cannot be accepted as he has been transferred out of the CPWD. The obligation of providing a residential accommodation in the case of the applicant now rests on respondents 1 & 2. The contention of respondent 1 & 2 that the allotment of quarter to its employees can be made only on the basis of the position reckoned with the length of service also cannot be considered to be untenable. If all the employees of the respondents 1 & 2 cannot be provided with government accommodation, they can be given accommodation only in their turn considering the number of residential quarters available and the number of employees who are in need and on the basis of seniority. Those who are not lucky to get residential quarter allotted will have to find out their own arrangement for stay, of course, receiving HRA provided for as per the rules."

8. In para 7 of the order, the Tribunal concluded that there was no justification to issue a direction to the respondents to allow the applicants to occupy the quarter meant for CPWD staff on payment of normal rent.

9. It is, thus, clear that the action of the respondents to recover market rent was a matter directly and substantively in issue in earlier OAs filed by the applicants. The Tribunal had also given its final decision on the issue. For this reason, I agree with the learned counsel for the applicant that the matter having been already adjudicated upon and the judgement having been pronounced, the present OA is squarely barred by the doctrine of the res judicata.

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10. In view of this position no further consideration of the plea put forth by the applicants is required. Both the OAs accordingly stand dismissed.

(R.K. Abboja)
Member (A)

Mittal

Phyllis Dean

(विद्युत् चालक)

(BIPAL 4 DEVI)

केंद्र अधिकारी (Director)

31/12/1944

Central Adjoining the Tribunal

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Pre- and Post-Workshop Hours

441 1/2 Day/Nov Delhi-110001