

CENTRAL ADMINISTRATIVE TRIBUNAL PRINCIPAL BENCH.

O. A. No. 2776/1997

New Delhi: this the 6th day of July, 1998.

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

Manohar Lal Mehta, Ex-Yard Master,
R/o Rly. Quarter No. 30-A, Railway Colony,
Tuglaka Bad,
Delhi. Applicant.
(Shri Yogesh Sharma)

Versus

1. Union of India through
The General Manager,
Northern Railway,
Baroda House,
New Delhi.
2. The Divisional Railway Manager,
Northern Railway,
Delhi Division,
Near New Delhi Station,
New Delhi Respondents.

(By Advocate: Shri R.L. Dhawan)

JUDGMENT

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

Heard both sides.

2. The only prayer pressed by applicant's counsel Shri Sharma is for waiver of damages/license fee in respect of retention of Govt. Qr. No. 30A Tuglaqabad, Railway Colony, New Delhi.

3. Admittedly applicant who was the allottee of the aforesaid premises retired on superannuation on 30.11.90. Respondents permitted him to retain the premises for a period of 8 months in two equal spells of four months on normal/concessional rent which expired on 29.7.91. Applicant and his son filed O. A. No. 621/92 for out of turn accommodation of Govt. premises in the name of his son who was an unskilled Casual Labourer,

but had attained temporary status. In that O.A. an ex-parte interim order was passed on 10.3.92 not to evict applicants from the said quarter, which was extended from time to time. That O.A. was disposed of by judgment dated 8.5.92. In that judgment it was noted that applicant had already availed of the facility of retaining on normal/concessional rates of license fee applicable in case of retired Govt. servants. That O.A. was dismissed by aforesaid judgment on 8.5.92 in which it was held that a case for out of turn allotment of Qr. No. 30A Railway Colony, Tughlakabad in the name of applicant's son was not made out. However, to give some time to the family to vacate the premises respondents were directed to allow applicants to stay in the quarter till 31.7.92 on payment of license fee as per rules (emphasis supplied).

4. Meanwhile respondents subsequently of their own accord, regularised the aforesaid quarter on out of turn basis in name of applicant's son on 11.8.92 and called upon applicant to pay license fee at penal rates for unauthorised occupation of the quarter from 29.7.91 to 11.8.92 vide their order dated 23.7.93. Applicant challenged the same vide O.A. No. 2211/93 which was disposed of by judgment dated 22.5.96 with a direction to respondents to dispose of his representation dated 8.8.93. Respondents accordingly did so vide impugned order dated 11.11.96 (annexure-A/1) against which the present OA has been filed.

5. Manifestly applicant was in unauthorised occupation of the premises in question from 29.7.91 till it was regularised in the name of his son on 11.8.92 and is required to pay license fee as per rules. No separate orders were necessary to cancel the allotment and to treat the aforesaid period as unauthorised, as has been made clear in the CAT Full Bench decision reported in Ram Poojari Vs. UOI & Ors. 1996 (34) ATC 434. Respondents have called upon applicant to pay license fee for the aforesaid period only in accordance with rules. The interim orders passed in OA No. 621/92 on 10.3.92 and modified in terms of the final judgment passed on 8.5.92 gave applicant only a protection against physical eviction, but not against payment of license fee which was to be determined in accordance with rules.

6. In the result the impugned orders warrant no interference. The OA is dismissed. Interim orders, if any, are vacated. No costs.

S. R. Adige
(S. R. ADIGE)
VICE CHAIRMAN (A)

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