

C.IV

A.2..


O.A. No. 604 of 1997

17.11.1997

Present: Shri S.K. Sawhney, Counsel for the  
applicant.

Shri S.M. Arif, Counsel for the  
respondents.

Fleadings are complete. O.A. is  
admitted. List for final hearing in its turn.

  
(K. MUTHUKUMAR)

MEMBER (A)

Rakesh

20-11-97  
OA 604/97

could not be reached to be  
deposited on bond.

Bv  
Per  
C. E. W.

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O.A. No. 604/97

21.11.1997

Item No. R-5

Present : Shri S.K. Sawhney, learned counsel  
for the applicant.

Shri S.M. Arif, learned counsel for  
the respondents.

Shri Sawhney seeks adjournment due  
to personal difficulty.

Let it remain on board.



(Dr. A. Vedavalli)  
Member (J)

PKV

CA 600/97 } common  
OA 604/97 } order

25/11/97

Present: - Sh. S.K. Sawhney, counsel for  
the applicant -

Sh. S.M. Arif counsel for the respondents

order (CA - ) dictated in the open court by S. B. ...  
A. H. ... Mr R.K. Arora MCA

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C/CS

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Central Administrative Tribunal  
Principal Bench: New Delhi

OA 600/97 & 604/97

New Delhi this the 25th day of November 1997

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

OA 600 of 1997

Shri Raja Ram Machal  
S/o Late Shri Wadhawa Ram  
working as Supervisor (Audit)  
in the office of Director of Audit  
Posts & Telecommunications  
Delhi - 110 054.  
R/o DG-865 Sarojini Nagar  
New Delhi.

...Applicant

OA 604 of 1997

Shri Prem Lal  
S/o Late Shri B.Prasad  
Working as Senior Auditor  
in the office of Director General of Audit  
Posts & Telecommunications  
Delhi - 110 054.  
R/o C-84 Baba Kharak Singh Marg  
New Delhi.

...Applicant

(By advocate: Sh. S.K.Sawhney in both cases)

Versus

1. Comptroller & Auditor General of India  
Bahadur Shah Zafar Marg  
New Delhi - 110 002.
  2. Director General of Audit  
Posts & Telecommunication  
Sham Nath Marg, Old Sectt.  
Delhi - 110 054.
  3. Director of Audit  
Posts & Telecommunication  
Old Sectt.  
Delhi - 110 054.
- ...Respondents.

(By advocate: Mr S.M.Arif in both cases)

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O R D E R (oral)

By Mr R.K.Ahooja, Member (A)

The issue involved in both the OAs is same and the OAs are disposed of by a common order.

2. Applicants in both the OAs were allotted departmental pool accommodation while they were working in the office of the Accountant General, Posts & Telecommunications, New Delhi. They were subsequently transferred to the Branch Audit Office, Delhi in which office they were entitled to general pool accommodation. As there was delay in the allotment of general pool accommodation, they did not vacate the departmental pool accommodation. This led to a claim of damage rent by the office of the Principal Director of Audit, Posts & Telecommunications, Delhi. It is against this claim that the applicants have come before this Tribunal.

3. Respondents in their reply have stated that the applicants had been allotted departmental pool accommodations only on their furnishing an undertaking that they would vacate the same accommodation on their transfer. However, on their transfer, the applicants applied for retention of the accommodation which was granted under rule for a period of six months. Thereafter, their stay was declared as unauthorised and hence they became liable for damage rent.

4. I have heard learned counsel on both sides. Mr S.K.Sawhney, learned counsel for the applicant relies on the judgement of the Hon'ble Supreme Court in SLP (C) No.403 of 1995 S.C.Bose & ors Vs. CAG of India. I have gone through the said order of the Hon'ble Supreme Court and I find that the facts and circumstances are almost identical and, therefore, the ratio of the order of the Supreme Court in S.C.Bose's case will apply in the present case. In that case, the applicants

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belonging to the office of the Director General of Audit had been transferred to the Branch Office, Delhi and as a result had become non-entitled to occupy the government accommodation allotted from the departmental pool. Consequently, the applicants therein were required to pay penal rent for occupying the accommodation under the departmental pool. The Supreme Court held that the Department was not justified in recovering penal rent and damages for occupying the accommodation from the Departmental Pool on account of non-allotment of government accommodation from the General Pool.

5. Learned counsel for the respondents has submitted that the facts and circumstances of the present case are different in as much as the applicants herein are deputationists and were allotted departmental pool accommodation in that capacity. He submitted that as the Department was in need of deputationists, it became necessary that those who come in place of the applicants should be able to get accommodation in the interest of public service. If deputationists are allowed to retain departmental pool accommodation, this will adversely affect the functioning of the office.

6. I have considered the objections raised by the learned counsel for the respondents. There is no mention in the reply filed by the respondents that the applicants were working in the capacity of deputationists even though there is a mention that on promotion, they were transferred to Office of Director of Audit, P&T, Delhi. If the position of the applicants was that of deputationist, then this fact should

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have been clearly brought out and the copies of the relevant orders should have been annexed. In view of this, I find no ground to conclude that the applicants were/are in fact deputationists with the office of the Accountant General. Consequently, the ratio of the Supreme Court order in S.C.Bose's case would squarely apply in this case also.

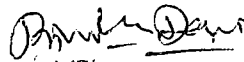
7. In view of the above discussion, the OAs are allowed. Respondents are directed to charge only normal rent from the applicants for the period of occupation of the departmental pool accommodation and till the date of vacation of the same on allotment of an alternate accommodation.

The OAs are disposed of as above.

No order to costs.

  
(R.K. Anchoja)  
Member (A)

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(1) Mr. Pankaj Datta  
Deputy Secretary to Government  
Central Government  
Ministry of Education  
New Delhi