

Central Administrative Tribunal
Principal Bench

O.A.No.933/97

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

New Delhi, this the 10th day of November, 1997

Shri Mohd. Rehmat
s/o Mohd. Quber
employed as Peon
Ministry of Home Affairs
Directorate of Coordination
(Police Wireless)
CGO Complex, Block No.9
Lodhi Road
New Delhi.

... Applicant

(By Shri D.R.Gupta, Advocate)

Vs.

1. The Chairman
Delhi Milk Scheme through its
Administrative Officer (G)
West Patel Nagar
New Delhi - 110 006.
2. The Accounts Officer
Ministry of Home Affairs
Directorate of Coordination
(Police Wireless)
CGO Complex, Block No.9
Lodhi Road
New Delhi. ... Respondents

(By Shri S.Mohd. Arif, Advocate)

O R D E R (Oral)

The applicant who was employed as GPO in the Office of Delhi Milk Scheme was allotted a Govt. Quarter No.14/201, DMS Colony, Hari Nagar, New Delhi out of the departmental pool of DMS. Subsequently, the applicant was declared as surplus and had been transferred to the Ministry of Home Affairs, Directorate of Co-ordination (Police Wireless), New Delhi. The applicant submits that he applied for allotment of Govt. accommodation in the General Pool, which was given to him finally on 7.12.1996. There upon he vacated the quarter allotted in the departmental pool by the DMS. His grievance is that the respondents have demanded damage rent of Rs.64,994/- against him for the so called unauthorised occupation of the quarter. The applicant submits that in terms of Supreme Court decision in S.C.Bose vs.

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Controller and Auditor General of India and Others, 1995 Supp. (9)

(3) SCC 141, he is entitled to continue in the departmental pool accommodation till the allotment of the General Pool accommodation.

2. The respondents have filed a reply. While admitting the basic facts regarding the applicant having rendered service with them and now being entitled to the General Pool of accommodation, they submit that the ratio of S.C.Bose (Supra) does not apply in the present case because of its very peculiar facts and circumstances.

3. The learned counsel for the applicant submits that this case is also squarely covered by the Judgment in OA No.2812/92 dated 10.9.1997, Shri Bhagwati Prasad Vs. Union of India & Others. The learned counsel for the respondents however draws my attention to the order of this Tribunal in OA No.2000/93, which was also filed by the applicant and was decided on 10.2.1994 and submits that as per that order the applicant was allowed to retain the quarter, irrespective of the allotment of quarter from the General Pool, for a maximum period of three months. According to the learned counsel, the applicant, having not complied with these directions, he became liable for damage rent.

4. I have considered the contentions of the counsel on both sides. The operative part of the order in OA No.2000/93 reads as follows:

"So far as the quarter occupied by the petitioner is concerned, the maximum time for vacation is three months. So far as the damages for over-stay in the premises allotted by the Delhi Milk Scheme are concerned, the same shall be recovered in accordance with law."

5. Admittedly, the Directorate of Estates allotted the House from the General Pool Accommodation on 17.12.1996. In S.C.Bose's case (Supra) it was held as follows:

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"Having regard to the aforesaid circumstances, we are of the view that since the officers were entitled to allotment of accommodation from the General Pool and they had to stay in accommodation from the General Pool, the department was not justified in recovering penal rent and damages for occupying the accommodation from the Departmental Pool. The appeals are, therefore, allowed and the order regarding recovery of penal rent and damages from the appellants are set aside."

6. In view of the ratio of the Judgment in S.C.Bose's case(Supra), the observation of the Tribunal in OA No.2000/93 quoted above has to be read to mean that the applicant could retain the departmental accommodation till the allotment of the house to him from the General Pool. Since the same was given to him on 17.12.1996, he cannot be charged damaged rent for the intervening period. In the similar case of Shri Bhagwati Prasad(Supra), the same view has been reiterated by the Tribunal in identical facts and circumstances when the applicant was in occupation of a house from the departmental pool of the DMS.

7. In view of the above discussion, the OA is allowed. The impugned orders are set-aside and the respondents are directed to charge normal rent from the applicant. No costs.

Rao
(R.K.AHOJA)
MEMBER(A)

/rao/