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CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH,
NEW DELHI.

O.A. No. 1043/94.

New Delhi this the 3rd day of September,
1994.

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

P.C.Gupta,
s/o Shri Asharfi Lal Gupta,
aged 46 years,
At present working as Assistant
Central Intelligence Officer Grade-I,
in Intelligence Bureau(MHA), New Delhi,
r/o Q.No.102 Type III,
N.H.IV, FaridabadApplicant.

By Shri A.K.Behra ,Advocate

Versus

1. Union of India, through
the Secretary, Ministry of
Urban Development, Nirman
Bhawan, New Delhi.
2. The Director,
Office of Directorate of Estates,
Nirman Bhawan,
New Delhi.
3. Assistant Estate Manager,
Office of the Assistant Estate Manager,
N.H.-IV, Faridabad.
4. The Director,
Intelligence Bureau(MHA),
Government of India,
North Block,
New Delhi.Respondents.

By Shri M.K.Gupta, Advocate

JUDGMENT

In this application, Shri P.C.Gupta, Central Intelligence Officer, Grade I, Intelligence Bureau(MHA), Delhi, has prayed for a declaration that he is entitled to rent/licence free accommodation at Faridabad and to direct the respondents to allow the applicant to retain the Government accommodation No.102 C, H-IV, Faridabad without deducting any rent/licence fee.

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2. The applicant, who was appointed as ACIO Grade II in the Intelligence Bureau on 26.7.71, was subsequently promoted as ACIO Grade I w.e.f. 6.4.87 and was posted at W.T. Training Centre, Faridabad. By Home Ministry's letter dated 23.5.69 (Annexure-A1), the officers below the rank of Deputy Central Intelligence Officer (DCIO), (both deputationists and non-deputationists) in Intelligence Bureau, are entitled to get rent free unfurnished accommodation or HRA in lieu thereof as admissible to corresponding to Police Officers in the State of posting. While posted at W.T. Training Centre, Faridabad, the applicant was allotted Quarter No. 102C at N.H. IV Faridabad on 26.8.87 on rent free basis. The applicant was transferred from W.T. Centre, Faridabad to Delhi on 2.7.88. By Directorate of Estates' Circular dated 11.4.84 (Annexure-A2), Officers who had been allotted accommodation in Faridabad consequent to their posting, and subsequently transferred to an eligible Central Government Offices located in eligible zone in Delhi, have been given option to retain accommodation in General Pool at Faridabad, subject to payment of normal rent.

3. The point in issue is whether the applicant upon his being transferred from Faridabad to Delhi is eligible to retain the accommodation at Faridabad on rent free basis or not?

4. On behalf of the applicant, it has been contended that ^{he} being an officer below the rank of DCIO in the IB, is entitled to rent/licence

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free accommodation anywhere in India in accordance with the Presidential sanction dated 23.5.69.

It has further been stated that the applicant had not drawn HRA at Delhi and has also not claimed General Pool accommodation in Delhi. If had he made such claim, he would have been entitled to rent/licence free accommodation, and on that ground he cannot be denied the same benefit merely because he continues to reside in Faridabad and has not shifted to Delhi. Further more, it has been urged that the employees in other Central Govt. Offices/Ministries, who are not entitled to rent/licence free accommodation, are allowed to retain their accommodation in Faridabad, upon being transferred to Delhi, but they have to continue to pay rent/licence fee, and on the same analogy the applicant who enjoyed rent free accommodation while posted in Faridabad, must be allowed to continue to enjoy that benefit even upon his posting to Delhi in view of the Home Ministry's letter dated 23.5.69. In this connection, applicant's counsel Shri Behra during hearing has sought support from the recommendations of I and II Pay Commissions as well as O.M. dated 2.8.60 reproduced at page 135 of FRSR Part V, to buttress his argument that the concession granted in Home Ministry's letter dated 23.5.69 has no nexus with the place of posting, but with the nature of duties. It has also been argued by him that by O.M. dated 19.2.87 at page 119 of FRSR Part V, the Central Govt. employees belonging to Groups B, C, and D working in classified and unclassified

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cities are entitled to compensation in lieu of rent free accommodation at certain specified rates, and in the absence of such compensation to be paid to the applicant, he should not be deprived of rent free accommodation.

5. Respondents No.1 to 3 (Ministry of Urban Development, Directorate of Estates, Nirmen Bhawan and Asstt. Estates Manager, Faridabad) in their reply have contested the applicant's claim. No reply has been filed by respondent No.4 (Director, IB). In their reply, respondents no.1, 2 and 3 state that the applicant's claim is time barred as the cause of action arose in 1988, whereas this O.A. was filed in 1994. Further more, it has been contended that the applicant has challenged a policy decision of the respondents and it is well settled that policy decisions should not be interfered by Courts/Tribunals, unless they are against the public interest or are unreasonable. In this connection, respondents' counsel Shri M.K. Gupta has placed reliance on the ruling in 1994(2)SLJ 54 State of U.P. Vs. U.P. Colleges Pensioners Association. It has also been stated that this very issue had been raised by respondent No.4 (Director, Intelligence Bureau) as far back as 1985 when he sought clarification whether Ghaziabad and Faridabad came within the eligibility zone for the officers posted at Delhi and whether officers, entitled to rent free accommodation in Delhi, were entitled to same facility if they retained accommodation in Ghaziabad/Faridabad. It is stated that an

unambiguous clarification was sent on 10.9.85 that the concerned officers were entitled to rent free accommodation only at the place of their posting and not elsewhere. It has been urged that the same issue has now again been raised that as the applicant's place of posting is not at Faridabad but at Delhi, he is required to pay the rent at normal rate if he seeks to retain the accommodation at Faridabad in accordance with Directorate of Estates' Circular dated 11.4.84 (Annexure-A2).

6. Shri Gupta has also urged that any construction in the service rules, which is in consonance with long standing practice prevailing in the concerned department, has to be preferred, and ^{as in} the position that the officers retaining accommodation in Ghaziabad/Faridabad even after their transfer to Delhi, are required to pay rent at the normal rate, has been in force since very long and has been made uniformly applicable in all other cases, no departure from those long standing instructions would be justified in the present case. In this connection, he relies on a ruling Suresh Nathan Vs. UOI-1992(19) ATC 929.

7. I have considered this matter carefully and have also perused the relevant file of Directorate of Estates (Respondent No.2) bearing No. 76/7/79 Region title 'Retention of accommodation by Ghaziabad based officials in the event of their transfer to Delhi-Policy regarding.' The said file contains a copy of Home Ministry's Circulars dated 4.12.76 and 31.12.76, compiling/consolidating the Govt. orders/instructions on the admissibility of pay and allowances to the deputationist and

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non-deputationist officers respectively in the I.B. The purpose of both these circulars is that the I.B. Officers below the rank of DCIO such as the applicant would have the option to get rent free unfurnished accommodation or house rent allowance in lieu thereof as admissible to their counterparts and it is further expressly provided that as I.B. executive officers are subject to frequent transfers, the option must be exercised by the officers on each such transfer within the stipulated period of two months of their posting to a particular place or on appointment to a higher post and such option would be admissible to them. Clearly, therefore, the entitlement of the I.B. Officers for rent free accommodation in accordance with Home Ministry's letter dated 23.5.69 and subsequent circulars dated 4.12.76 and 31.12.76 is related to their place of posting. In terms of these instructions, the applicant while posted at Faridabad would no doubt enjoy the benefits of rent free accommodation there, but as he was subsequently posted at Delhi, the benefits of rent free accommodation would not be admissible to him, for the accommodation he retains in Faridabad and in terms of Directorate of Estates' letter dated 11.4. 84 (Annexure-A4), he would be required to pay the rent at normal rate for retaining Govt. accommodation in Faridabad while being posted at Delhi.

8. As mentioned above, the Home Ministry's circulars, referred to above, themselves make

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it clear that the facility of rent free accommodation is linked with the place/State of posting and Delhi, Ghaziabad and Faridabad are not only separate cities but they lie in separate ^{in States/Union} territories. Further more, it is noted that this issue has been raised more than once by the I.B. or ^{by} their officers independently and the Directorate of Estates has been consistent in view that the facility of rent free accommodation in Faridabad and else where, would be available only as long the officers were posted there, and this facility would not be available once the officer was no longer posted there.

9. In view of what has been stated above, this application lacks merit and it is dismissed.
No costs.

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(S.R. ADIGE)
MEMBER (A)

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