

**CENTRAL ADMINISTRATIVE TRIBUNAL**  
Principal Bench

O.A. No. 1084 of 1984  
M.A. No. 239 of 2001

New Delhi, dated this the 29<sup>th</sup> November 2001

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**HON'BLE MR. S.R. ADIGE, VICE CHAIRMAN (A)**  
**HON'BLE DR. A. VEDAVALLI, MEMBER (J)**

1. Council of Scientific & Industrial  
Research through  
the Director General,  
Anusandhan Bhawan,  
Rafi Marg, New Delhi.
2. National Physical Laboratory through  
the Director,  
Dr. K.S. Krishnan Road,  
Pusa, New Delhi. .... Applicants

(By Advocate: Ms. Anuradha Priyadarshini)

Versus

Shri Murari Lal,  
R/o G-12, NPL Colony,  
New Rajinder Nagar,  
New Delhi. .... Respondent

(By Advocate: Shri B.B. Raval)

**ORDER**

**Mr. S.R. Adige,**

In this O.A. applicants (CSIR and one other) seek a direction that the retention of staff quarter no. G-123 NPL Colony, New Rajinder Nagar, New Delhi w.e.f. 30.6.90 by respondent Shri Murari Lal is unauthorized and he is liable to pay license fee @ Rs.2000/- p.m. w.e.f. 22.7.92. A direction is sought to respondent Murari Lal to pay license fee of Rs.1,01,314/- till 31.3.94 and to continue to pay the license fee till the vacation of the quarter @ Rs.2500/- p.m. and water charger @ Rs.10/- p.m. A direction is also sought calling upon respondent to pay interest @ 10% p.a. till total amount till the date of payment and to give peaceful vacant

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possession of the quarter to the applicant. Costs have also been prayed for.

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2. By order dated 25.8.99, this O.A. had been adjourned sine die in view of the Delhi High Court's order dated 18.2.98 staying the operation of the Tribunal's order dated 27.11.97 in O.A. No. 1997/92 in which a similar prayer, as made in the present O.A. was made by CSIR. A Full Bench of the Tribunal constituted to answer the reference as to whether an employer could come to the Tribunal for a declaration against a retired employee relating to the alleged unauthorized occupation of the accommodation which had been allotted to the employee while he was in still in service, and for the recovery of damages for the period the retired employee continued to occupy the accommodation unauthorisedly, in its order dated 13.1.2000 in O.A. No. 1058/98 ICAR Vs. Shri Mangal Singh, answered the reference in the affirmative. While doing so it specifically noticed the fact that in O.A. No. 1997/92 CSIR & Anr. Vs. K.N Bahuguna decided on 27.11.97, an interim stay order had been passed by the Delhi High Court on a writ petition filed by the respondent (Shri K.N Bahuguna) but observed that the stay order was only in respect of payment of penal rent and not a stay of the entire order of the Tribunal including the finding that the Tribunal had justification to entertain the claim contained in the O.A. Accordingly the Full Bench proceeded to hear the reference and as stated above answered the same in the affirmative and remanded the matter to the Division Bench for disposal on merits and in accordance with law.

3. The aforesaid Full Bench order dated 13.1.2000 in CSIR Vs. Mangal Singh was itself challenged in the Delhi High Court by that respondent, in CWP No. 1885/2000. The same came up before the Delhi High Court who by its order dated 22.5.2000 allowed Shri Mangal Singh to withdraw CWP No. 1885/2000 because in the mean time the Tribunal

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had examined the matter, and passed another order on 27.4.2000 by which the application of the respondents had been allowed and Shri Mangal Singh had been directed to vacate the quarter in question within two months from the date of receipt of a copy of the order. By its subsequent order dated 12.6.2000 in CWP No. 3153/2000 the Delhi High Court after <sup>perusing</sup> ~~passing~~ the Full bench decision of the Tribunal, found no infirmity in the impugned order and dismissed CWP No. 3153/2000.

4. Thereupon applicants filed M.A. No. 239/2001 seeking

- i) revival of the present O.A.
- ii) hearing of the O.A. on merits.

5. We have heard both sides on M.A. No. 239/2001 as well as on the merits of the O.A.

6. In the light of the aforesaid mentioned order of the Delhi High Court, M.A. No. 239/2001 is allowed and the O.A. is revived.

7. Coming to the merits of the O.A., respondent Shri Murari Lal has taken the following defences in his reply in the O.A.

- i. The Tribunal has no jurisdiction to entertain the O.A.
- ii. Respondent's date of retirement on attaining the age of 60 years should actually have been 30.9.1991, but he was retired by applicants in October, 1989 itself.
- iii. Upon his retirement, he had represented for regularization of this quarter in the name of his handicapped son who had been working in NPL since 1983, first as a daily rated casual labourer, and later followed by regularization as Technician Grade II. He was, therefore, also eligible for regularization of the quarter in question, but <sup>the</sup> Department had taken no action thereon. In certain other cases, the quarter had

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been regularised, and respondent's son was, therefore, also entitled to similar treatment.

8. We have heard both sides on the merits of the

O.A.

9. In so far as the first defence is concerned, the same is longer available to respondent, in the light of the aforementioned Delhi High Court's orders.

10. In regard to the second defence, respondent does not deny that he was retired on 31.10.89 (Para 3 of preliminary submissions in his reply). If indeed Department retired him on 31.10.89 illegally and his actual date of retirement should have been 30.9.91 as claimed by him, there are no materials filed by him to indicate that he ever agitated regarding his premature retirement before the appropriate forum, and/or approached the Tribunal in this regard.

11. As regards the third defence, respondent has not filed with his reply, copy of any representation submitted by him or by his son seeking regularisation of the quarter in his son's name. Indeed applicants in their rejoinder, state that no such representation/request has been obtained by them either from respondent, or his son. Furthermore they point out in rejoinder that while respondent was

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retired on superannuation on 31.10.89, his son was appointed as Technician Grade II only on 10.12.91 i.e. well after two years subsequent to the date of respondent's retirement.

12. During the course of hearing respondent's counsel submitted that in similar circumstances one Shri Jai Dutt retired on 30.6.79 and his son Shri Prem Prakash who got his first appointment on 30.5.80 as Farash and is continuing to retain the same accommodation which stood allotted to his father. By respondent's own submissions in the case of Shri Jai Dutt the gap between his retirement and the appointment of his son was less than one year but the gap between respondent's retirement (31.10.89) and the appointment or regularisation of his son (10.12.91) is well over two years in the present case. Hence Jai Dutt's case(supra) is not a valid precedent.

13. In the body of respondent's reply the case of one Miss Sukh Rani Mukherjee has been cited, but as per his own averments the gap between the retirement of Miss Mukherjee's father who was an employee of NPL and her own initial appointment was barely 15 days because her father retired on 30.9.82 while she was initially appointed w.e.f. 14.10.82. In the present case as already noticed the gap between respondent's retirement and his son's appointment on regular basis is well over two years. Respondent avers that his son was working as a casual labourer in N.P.L since 1983 till he was regularised as Technician Gr. II but manifestly employment as a casual

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labourer does not entitle that person to Government accommodation and in the case of respondent's son, his claim for regularisation of Government accommodation would arise only from 10/12/91 and not before, when as per respondent's own averment in his reply his son was working only as a casual labourer.

14. In the result the O.A. succeeds and is allowed to the extent that we hold that the retention of staff quarter No. G-123, NPL Colony, New Rajinder Nagar, New Delhi by respondent Shri Murari Lal beyond 30.6.90 to be unauthorised, and he is called upon to vacate the aforesaid premises within two months from the date of receipt of a copy of this order, failing which applicants may recover possession from the occupants after evicting them from the said premises in the same manner as is available to the Director of Estates in respect of Central Government pool accommodation. Applicants will also be entitled to recover license fee from the occupants with interest thereon in accordance with rules and instructions on the subject. However, nothing contained in this order will preclude applicants from regularising the aforesaid premises in the name of <sup>the</sup> occupants on payment of such license fee as may be determined by applicants, if they are so disposed to do. No costs.

A. Vedavalli

(Dr. A. Vedavalli)  
Member (J)

S.R. Adige

(S.R. Adige)  
Vice Chairman (A)

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