

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A. NO. 15/2000

21
New Delhi, this day the 1st February, 2002

HON'BLE SHRI S.A.T. RIZVI, MEMBER (A)

Harsh Vardhan Agarwal S/o Sri R.K. Agarwal,
R/o 550, Sahukara, Bareilly presently employed
at Malaria Research Centre, Shahjahanpur (U.P)
under Indian Council of Medical Research
New Delhi

... Applicant

(Applicant in person)

Versus

1. The Director General, Indian Council of Medical Research Post Box 4508, Ansari Nagar, New Delhi
2. The Director, Malaria Research Centre, 22, Sham Nath Marg, Delhi-110 054
3. The Director, Regional Medical Research Centre, Farzand Ali Market, Aberdeen Bazar, Port Blair (A&N) - 744 101

... Respondents

(By Advocate : Ms. Anuradha Priyadarshini)

ORDER (ORAL)

BY S.A.T. RIZVI, MEMBER (A) :

Heard the applicant in person and the learned counsel for the respondents.

2. During the course of his posting at Port Blair from 1983 to 1993, the applicant enjoyed the facility of rent free residence in accordance with the applicable rules. However, during his aforesaid stay, the applicant remained on varying periods of leave, each exceeding one month, vide details given at Annexure A-1, and this has given rise to a demand for payment of rent from him covering periods of leave exceeding one month. The total demand raised against the applicant worked out

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to Rs.18,706/- which was to be recovered from him vide Memorandum dated 26.10.94/2.11.94 (Annexure A-3). Aggrieved by the same, the applicant has filed this O.A.

3. The applicant in person has argued that the recovery of Rs.18,706/- required to be made in accordance with Annexure A-1 is untenable for various reasons such as non-applicability of Govt. of India's Order dated 4.10.1991 recorded below SR 316-A, applicability of a different set of rules in respect of Port Blair location, and non-applicability of the aforesaid Govt. of India's order from a date prior to 4.10.1991. These are the only grounds pressed by the applicant at the time of hearing.

4. The learned counsel appearing on behalf of the respondents has pointed out that the applicant has not shown as to why the aforesaid Govt. of India's order dated 4.10.1991 will not apply in his case, and has also not placed before the Tribunal any other rules which would govern the applicant's case. According to her, the relevant supplementary rules will undoubtedly find application in the present case as the same are presumed to have been adopted by the ICMR. She has relied on the specific provision contained in SR 316-A, which reads as under:

"An officer allotted residential accommodation on rent free basis may be allowed to retain the residence free of rent while on leave upto a maximum period of one month subject to the condition that he is likely to return to the same post from which he proceeds on leave".

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5. As regards the quantum of recovery, the learned counsel for the respondents has placed reliance on the provision contained in FR-45-B (III)(a)(i) which reads as under:

"III. The standard licence fee of a residence shall be calculated as follows:-

(a)(i) In the case of a leased residence, the standard licence fee shall be the sum paid to the lessor."

According to her, the respondents' Centre at Port Blair does not own residential accommodation and, therefore, accommodation to the employees is provided by hiring private buildings. In the circumstances, the rent being reimbursed/paid by the Centre in respect of the leased/hired accommodation allotted to an employee is required to be recovered from him for retaining the possession of the same beyond the permissible period of one month of leave on each occasion.

6. In accordance with the aforesaid rule, the applicant is required to pay, according to the learned counsel for the respondents, standard licence fee in respect of each period of leave in excess of one month. Calculations have accordingly been made by the respondents so as to cover each period in excess of one month. Since the standard licence fee will be the same in the present case as the ~~amount~~ paid to the lessor in accordance with F.R.45-B (III) (a) (i) reproduced above, the total amount due from the applicant works out to Rs.18,706/- The impugned letter dated 26.10.94/2.11.94 refers to the same amount. *Q*

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7. The applicant has, during the course of arguments, placed before me copy of a letter dated 16.1.1996 addressed to the Director, Malaria Research Centre, Delhi, which makes a reference to F.R. 45-A and categorically states that the said F.R. will not apply in the instant case and further that it is FR 45-B which ^{instead} will find application in the circumstances of this case. A perusal of FR 45-A (III) (a) shows that the standard licence fee of a residence is to be calculated as follows:

"III. (a) in the case of a leased residence and a requisitioned residence, which is according to and within the entitlement of an officer, the standard licence fee shall be the same as in the case of residence of similar range of living area owned by the Government."

Since the respondents do not own any accommodation at Port Blair, the aforesaid F.R. 45-A (III) ~~(a)~~ will, according to the learned counsel for the respondents, simply not apply and in the circumstances the recovery of standard licence fee calculated according to F.R. 45-B (III) (i) is wholly in order. I am inclined to agree.

8. In-so-far as the plea of prospective application of Govt. of India's order dated 4.10.1991 is concerned, my attention has been drawn by the learned counsel appearing on behalf of the respondents to the O.M. dated 20.3.1965 issued by the erstwhile Ministry of WH & UD, to which ^{reference} has been made in Govt. of India's O.M. dated 24.9.1996 reproduced on pages ~~249~~ - 252 of Swamy's ²⁵¹ Compilation of FRSR Part-I General Rules (Thirteenth

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Edition - 1997). The aforesaid OM dated 20.3.1965 which has been superseded by the aforesaid OM dated 4.10.1991 had provided that, the period of leave granted to an officer, who has been allotted residential accommodation on licence fee-free basis exceeds one month and the officer concerned is permitted to retain the residence by the competent authority during such period, usual licence fee in accordance with the rules in force shall be recovered for any period of leave exceeding one month. The aforesaid provision was evidently in force till the aforesaid Memorandum dated 4.10.1991 was issued. I have readily seen from the above that even prior to 4.10.1991 the applicant was obliged to pay the standard licence fee in respect of the various periods of leave in question. Thus irrespective of the date of issuance of the O.M. dated 4.10.1991, the applicant's case is covered by the same rule and he was under an obligation to pay the due amount of standard licence fee even for the period prior to 4.10.1991.

9. In the light of the foregoing, I find no merit in the O.A., which is dismissed. No costs.


(S.A.T. RIZVI)
MEMBER(A)

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