

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A.No.869/2000

Hon'ble Shri Justice V.Rajagopala Reddy, VC(J)
Hon'ble Shri Govindan S. Tampi, Member(A)

New Delhi, this the 22nd day of November, 2000

Shri A.K.Shrimali
Superintendent of Accounts
Kendriya Vidyalaya Sangathan
Regional Office
Delhi now Jammu and
r/o 47-C, MIG Flat
New Kondli, Mayur Vihar
Phase-II, Delhi.

... Applicant

(By Shri M.L.Chawla, Advocate)

vs.

1. Kendriya Vidyalaya Sangathan
through its Commissioner
18, Institutional Area
Shaheedjeet Singh Marg
New Delhi - 110 016.
2. Assistant Commissioner
Regional Office
Kendriya Vidyalaya Sangathan
JNU Campus, New Mehrauli Road
New Delhi - 110 067.
3. Senior Administrative Officer
Kendriya Vidyalaya Sangathan
18, Institutional Area
Shaheedjeet Singh Marg
New Delhi - 110 016.
4. Assistant Commissioner
Regional Office
Kendriya Vidyalaya Sangathan
Jammu Region, Hospital Road
Gandhi Nagar
Jammu - 180 004 (J&K State). ... Respondents

(By Shri S.Rajappa, Advocate)

ORDER (oral)

Justice V. Rajagopala Reddy:

The only question that arises in this case is whether the allottee who stayed in the quarter was liable to pay the penal rent or twice the licence fee. A demand is made by the respondents in this case in their order dated 24.3.2000 for an amount of

Rs.2,10,470.75 being the penal rent. This matter is squarely covered by the judgement in K.S.Baura vs. Kendriya Vidyalaya Sanghan in T.A.No.17/2000 which was disposed of on 10.11.2000 to which both of us are party, and in which the present respondent was the respondent. Relying upon the rules placed before us by the counsel appearing for KVS through its Commissioner, we held that the standard rent to be payable by an employee who overstayed in the quarters was twice the licence fee payable by the allottee. To arrive at this finding we relied upon Rule VII and XV of the Allotment of Residence (KVS) Rules of 1976.

2. Following the above judgement it has to be held that the impugned order is contrary to the Rules and is liable to be set-aside. The applicant is liable to pay only twice the licence fee which he was paying before the alleged overstay.

3. The learned counsel for the respondents, Mr. S.Rajappa, now wants to say that Rules relied upon by the KVS in the earlier case are not rules that govern the situation. We do not agree. The respondent is precluded from raising this objection. Respondent cannot blow hot and cold. Placing reliance upon the Rules in the earlier case on the same point on identical factual situation, it is not open to it now to change its tune. The impugned order is, therefore, quashed. The OA is allowed with exorbitant costs of Rs.10000/- . The respondents are directed to refund whatever money that had been recovered from the applicant, within ten days from the date of receipt of a copy of this order.

(Govinda Member Secretary)

(V.Rajagopala Reddy)
Vice-Chairman(J)

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12-1-2001

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4.

CP = 16/2001

CA = 869/2000

Present: Shri M.L. Chawla, learned
counsel for the petitioner

Heard.

Issue notice to the respondents.

returnable in four weeks.

Personal presence of the respondents

is exempted for the present.

List on 22-2-2001.

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PS

(Gowindan S. Tampli) (Smt. Lakshmi Seaminvalley)
Member (A) Vice Chairman (J)

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