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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

O.A. NO. 1428/89

New Delhi this the 4th day of April, 1994

GRAM :

THE HON'BLE MR. JUSTICE V. S. MALIMATH, CHAIRMAN

THE HON'BLE MR. P. T. THIRUVENGADAM, MEMBER (A)

Avtar Singh S/O Sardar Narotam Singh,
Serving as Attache,
Embassy of India, Bahrain,
C/O Ministry of External Affairs,
South Block, New Delhi. ... Applicant

By Advocate Shri D. C. Vohra

Versus

1. Union of India through
Foreign Secretary,
Government of India,
Ministry of External Affairs,
South Block, New Delhi.
2. Embassy of India in Bahrain,
through the Head of Chancery,
Bahrain C/O Ministry of
External Affairs,
South Block, New Delhi. ... Respondents

By Advocate Shri K. C. Mittal

O R D E R (GRAL)

Hon'ble Mr. Justice V. S. Malimath -

The petitioner was appointed as Assistant Manager of the New External Affairs Hostel with effect from 22.9.1986. Subsequently the petitioner was sent on some other foreign assignment. He was in occupation of Government accommodation while holding the post of Assistant Manager. The respondents decided to charge market rent for the premises occupied by the petitioner on the ground that as only normal licence fee was charged from him, the difference was sought to be recovered from his pay. After filing this O.A. ~~the~~ the petitioner has obtained an interim order regarding recovery.

2. The short question for examination is as to whether the respondents are justified in charging market rent for the Government accommodation provided to the petitioner when he was discharging the functions of Assistant Manager of the New External Affairs Hostel from 22.9.1986. The petitioner maintains that he was entitled to free accommodation meaning thereby that he was not liable to pay even the licence fee for the accommodation which he was entitled to be provided. The respondents, on the other hand, take the stand that whether free accommodation should be provided or not is decided on the basis of functional requirements. They say that there being no order in favour of the petitioner entitling him to have rent-free accommodation, they are entitled to charge market rent. They further take the stand that the petitioner was allotted a transit accommodation to enable him to apply and secure regular allotment, but he never applied for regular allotment and continued to remain for unduely long period in the transit accommodation.

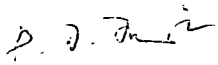
3. The principal case of the petitioner is that he has been discriminated in the matter of the particular condition of service regarding providing rent-free accommodation. In support of his case, the petitioner has relied upon the order made on 17.6.1986 in favour of one Kumari Pooja Tripathi who was appointed as Assistant Manager in the Old External Affairs Hostel in the pay scale of Rs.550-900. Clause (iii) of the said order which is produced as Annexure-G says that she would be entitled to free accommodation. There is no such stipulation entitling the petitioner to have

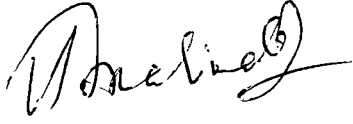
free accommodation on his appointment as Assistant Manager of the New Hostel in the scale of Rs.650-1200. There is no doubt that the petitioner was appointed as Assistant Manager in a scale slightly higher than the one accorded to Ms. Pooja Tripathi. Another feature to be noticed is whereas Ms. Pooja Tripathi was appointed as Assistant Manager of the Old Hostel, the petitioner was appointed as Assistant Manager of the New Hostel. Whether the difference in pay and the Hostel being Old or New should make any difference in the matter of allotment of free accommodation is the matter on which the respondents should have taken a positive stand. In the reply filed by them, there is no justification pleaded as to why ~~the~~ similar facility of rent-free accommodation was not made available to the petitioner as was made available to Ms. Pooja Tripathi.

4. The background of the case no doubt makes it clear that there is no order in favour of the petitioner entitling him to rent-free accommodation. That is the reason why he went on paying the normal licence fee. Having regard to the fact that there has not been adequate justification shown by the respondents for the stand they have taken and also taking note of the fact that the petitioner in the circumstances felt that he was liable to pay normal licence fee, we consider it just and proper to proceed on the basis that when the petitioner was appointed as Assistant Manager of the New Hostel it was obviously on the understanding that the petitioner would be entitled to have accommodation on payment of normal licence fee.

If that was not the position, the respondents would not have charged only the licence fee and changed their stand only at a belated stage. In this background, we consider it just and proper to dispose of this application with the following directions :-

The respondents shall charge only the normal licence fee for the premises occupied by the petitioner when he was holding the post of Assistant Manager of the New External Affairs Hostel. Proper adjustment shall be made of the amounts which the petitioner is liable to pay and the amounts already recovered from him. After making proper adjustments, if any further amount is due to the petitioner the same shall be refunded to him and, if on the other hand, the petitioner is liable to pay any further amount to the department by way of licence fee, they would be entitled to recover the same from the petitioner. No costs.


(P. T. Thiruvengadam)
Member (A)


(V. S. Malimath)
Chairman

/as/