

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

Regn.No. OA-1962/89

Date of decision: 18.9.92

Smt. Sudesh Vaid

.... Applicant

Versus

Union of India through
Secy., Deptt. of Agri-
culture & Others

.... Respondents

For the Applicant

.... Shri R.P. Oberoi, Advocate

For the Respondents

.... None

CORAM:

The Hon'ble Mr.P.K. Kartha, Vice Chairman(J)

The Hon'ble Mr.B.N. Dhoundiyal, Administrative Member

1. Whether Reporters of local papers may be allowed
to see the Judgment? *Ye,*

2. To be referred to the Reporters or not? *No*

JUDGMENT

(of the Bench delivered by Hon'ble
Shri P.K. Kartha, Vice Chairman(J))

The grievance of the applicant, who is working as a Technical Assistant in the Indian Agricultural Statistics Research Institute, New Delhi (IASRI for short) under the Indian Council of Agricultural Research (ICAR), relates to the decision of the respondents to disentitle her from allotment of Government accommodation on the ground that she owns a house under the Delhi Development Authority. In the present application, she has sought for the following

reliefs:-

(i) to quash the memo. dated 7.6.1988 directing the applicant herein to vacate the premises in question;

(ii) to quash the Memorandum dated 24.11.1988 cancelling the allotment of quarter No. 16 (Type-I II) at Krishi Niketan, Paschim Vihar, New Delhi with effect from 15.11.88;

(iii) to quash the Office Order dated 6.3.1989 containing the decision to recover market rent from the applicant ; and

(iv) to quash the Memorandum dated 26.7.1989 directing the applicant to vacate the premises in question on or before 10.8.89.

2. We have gone through the records of the case and have heard the learned counsel for the applicant. When the case was called on 8.9.1992, the learned counsel for the applicant appeared but none was present on behalf of the respondents.

3. The question whether a Government servant who owns a house in Delhi is entitled to allotment of Govt. accommodation, is governed by the instructions issued by the Central Government in the Ministry of Urban Development. By O.M. dated 9.9.1975, the Government decided that hence-

forward, no Government accommodation should be allotted to an officer owning a house at the place of his posting within the limits of any local or adjoining municipality. Prior to 1975, there was no restriction on the allotment of official residential accommodation to a Government servant who owned any house of his own.

4. The aforesaid decision was modified to some extent by O.M. dated 14.7.1977, whereby it was provided that house-owning officials would be entitled to get Government accommodation from 1.6.1977 on a different rate of licence fee. It was provided that if the income from the house owned by him is more than Rs.1,000/- per month, then half the market rent will be levied for the house allotted to him and if the income from the house owned by him exceeds Rs.2000/- per month, he would be liable to pay full market rent for the Government accommodation provided for him. If the income does not exceed Rs.1,000/-, the normal rent only would be charged.

5. Under the Rules made by the I.C.A.R. in 1981 regarding allotment of residences, a provision was introduced regarding the non-eligibility to house-owning officials on the lines of the orders issued by the Central Government in 1975. Similar provisions were made in the Rules framed by IASRI on the subject in 1981.

6. The applicant has brought to our notice that the I.C.A.R. has forwarded to the research institutes, etc., under them, the instructions issued by the Central Govt. in 1975 and 1977 for information and necessary action. Ultimately, the I.C.A.R. has amended the I.C.A.R. Headquarters (Allotment of Residences) Rules, 1981 in 1990. Rule 3 of the amended Rules provides that "officers owning houses at or near stations of their posting, shall be eligible for allotment of residence under these Rules in order of their date of priority. The matter relating to recovery of the licence fee from house-owning officers, shall be determined in accordance with the orders issued by the Government of India in this behalf.

7. The applicant has made several representations to the respondents. In her last representation dated 15.7.1991, she has referred to the aforesaid amended provisions of Rule 3 which had been circulated vide I.C.A.R. Circular No. 1-4/88-Per.4 dated 2.1.1991. She stated that according to the amended rules, the distinction between the house-owning officers and other categories of officers has been removed for the purpose of allotment of residential accommodation and in view of this, the allotment of her quarter at A-6/16, Krishan Niketan, stands regularised and only standard rent can be recovered from her under the Fundamental Rules as in

the case of other allottees.

8. During the hearing of the case, the learned counsel for the applicant has produced before us a letter dated 18th June, 1992 issued by the I.C.A.R. to the Directors/Project Directors of all the ICAR Research Institutes/Centres on the subject of uniform rules for allotment residential accommodation at various Units of the I.C.A.R. It has been stated therein that since Rule 3 of the Allotment of Residences Rules circulated with the ICAR's letter dated 2.1.1991, is based on the Government of India orders, the employees owning houses at or near the stations of their posting, may be allowed to retain official residential accommodation. It was, therefore, requested that Model Allotment of Residences Rules may be adopted at the Institute concerned and action taken be intimated to the I.C.A.R. immediately.

9. In the instant case, the applicant has stated that the respondents are recovering market rent at the rate of Rs. 407.10 per month from her salary, whereas standard rent payable by her, according to the latest instructions, works out to about Rs. 96/- per month.

in her rejoinder affidavit
She has stated that the rent received by her from her house is less than Rs. 3,000/- per month and as such, she is entitled to retain the accommodation allotted

to her on payment of normal rent/licence fee.

10. In the light of the foregoing, it will be seen that IASRI, which is under the ICAR, is bound by the instructions issued by the I.C.A.R. on the subject of allotment of residential accommodation to its officers. I.C.A.R. has issued instructions to all the Institutes to amend the Rules on the subject of allotment of residential accommodation on the lines of Rule 3 of the Allotment of Residences Rules circulated with the ICAR's letter dated 2.1.1989 which is ~~the~~ based on the Govt, of India's orders to the effect that employees owning houses at or near the stations of their posting, may be allowed to retain the official residential accommodation. Accordingly, we are of the opinion that the applicant is entitled to the relief's sought in the present application. We, therefore, set aside and quash the Memorandum issued by the respondents on 7.6.1988 directing the applicant to vacate the official accommodation in her occupation. We also set aside and quash the Memorandum dated 24.11.88 issued by them cancelling the allotment of the quarter in question u.e.f. 15.11.1988. We hold that the decision of the respondents to recover market rent from the applicant vide Office Order dated 6.3.1989, is not legally sustainable. We further direct the respondents to regularise the allotment

Q

of the official accommodation in the occupation of the applicant in the light of the instructions issued by the I.C.A.R. in their letters dated 2.1.1991 and 18.6.1992. She should also be charged the rent at the rates prescribed by the Central Government in respect of such accommodation, according to the latest instructions issued by them. Any excess recovery of rent made from the applicant, shall be refunded to her. The respondents shall comply with the above directions expeditiously and preferably within a period of three months from the date of receipt of this order. There will be no order as to costs.

B.N. Dholiyal
(B.N. Dholiyal) 18/5/92
Administrative Member

✓
P.K. Kartha
(P.K. Kartha)
Vice-Chairman (Judl.)