

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

NEW DELHI

O.A. No. 2250 of 1989
T.A. No.

199

DATE OF DECISION 15.1.92

S.S. Dua

Petitioner

None

Advocate for the Petitioner(s).

Versus

Union of India

Respondent

Shri P.P. Khurana

Advocate for the Respondent(s)

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The Hon'ble Mr. Justice Ram Pal Singh, Vice-Chairman (J).

The Hon'ble Mr. P.S. Habeeb Mohd., Member (A).

1. Whether Reporters of local papers may be allowed to see the Judgement ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the Judgement ?
4. Whether it needs to be circulated to other Benches of the Tribunal ?

(Judgment of the Bench delivered by Hon'ble Shri
Justice Ram Pal Singh, Vice-Chairman (J)).

J U D G M E N T

The applicant is aggrieved by the impugned order (Annex. A-1) by which he has been directed to deposit enhanced rent for his occupation of residential quarter No. 568, Sector 3, R.K. Puram, New Delhi. The applicant was posted at Delhi as Asstt. Surveyor of Works and was allotted the above noted Government accommodation at the rate of Rs. 78.95 per month. The applicant was then transferred to Passighat in Arunachal Pradesh in August, 1980. He worked in Arunachal Pradesh from 1.9.80 to 20.8.83 and was then posted back to New Delhi under the Delhi Administration, Public Works Department. He continued to retain Government accommodation at Delhi on his transfer from Delhi to Arunachal Pradesh. According to the applicant, his children were studying in the colleges at New Delhi. According to the applicant, when he was posted at

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Arunachal Pradesh, he was remitting his licence fee for the accommodation to the Directorate of Estates, New Delhi. He retired from service on attaining the age of superannuation with effect from 28.2.89. Hence, a demand was made from the applicant to pay the rent of Rs. 7247.60 which was due to him. It is this order which is being challenged by the applicant in this O.A.

2. The respondents appeared and filed their written statement. They contended that the applicant was transferred to Passighat on 25.8.80 and the allotment of the residential quarter in his name at Delhi was cancelled with effect from 25.10.80, after a period of two months which was the concessional period. According to the respondents, the applicant did not vacate the quarter in time, therefore, eviction proceedings were initiated against him under the Public Premises (Eviction of Unauthorised Occupants) Act, 1971. The final eviction order was passed on 13.12.82 and the applicant vacated the premises on 28.12.82 i.e. after 15 days from the date of the issue of the order. Therefore, according to the respondents, the arrear of licence fee/damages for the period of ⁺oversay_n has been charged from 25.10.82 to 28.12.82 at singly market rate and from 29.12.82 to 30.12.82 at thrice the market rate. The respondents contend that market rent has been assessed in terms of the provisions of SR-317-B-22 whereas damages at thrice the market rate were charged on the basis of administrative orders.

3. As the matter relates to the period 1980-82, the provision of SR. 317-B-22 applicable at that time (Annex.R-2) is reproduced below:

S.R.317-B-22. "Where, after an allotment has been cancelled or is deemed to be cancelled under any provision contained in these rules, the residence remains or has remained in occupation of the officer or whom it was allotted or of any persons claiming through him, such officer shall be liable to pay damages for use and occupation of the residence, services, furniture and garden charges/as may be determined by Government from time to time, or twice the licence fee he was paying, whichever is higher.

equal to the market
licence fee

Provided that an officer, in special cases, may be allowed by the Director of Estates to retain a residence

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on payment of twice the standard licence fee under F.R. 45-A, or twice the pooled standard licence fee under F.R. 45-A, whichever is higher, (or twice the licence fee he was paying, whichever is highest) for a period not exceeding six months sbeyond the period permitted under S.R. 317-B-11 (2)."

4. Hearing of this case was expedited and the counsel for the applicant was sent for before the arguments were taken up. The counsel was not available and the case remained on Board continuously till 13.1.92 when after hearing, ^{the counsel for the respondents,} we closed it for judgment.

5. The respondents have contended in their reply that the demand of Rs. 7247.60 relates to the arrears of licence fee/damages for the accommodation occupied by the applicant during his service period and not after his retirement. This amount pertains to period from 25.10.80 to 31.12.82. The respondents contend that recovery from the applicant was sent on 6.12.84 and 24.2.89, but the recovery could not be made. From the perusal of the above rules, it becomes clear that a Government servant can be permitted to retain possession of the Govt. accommodation on licence fee under F.R. 45-A on two conditions only:

- (i) that the children are studying in colleges at Delhi and
- (ii) on the health grounds of the members of the family or the dependents needing medical attention.

It is further observed that the applicant was not sent on deputation, but he was transferred. Hence, he was not eligible for the retention of the Government accommodation in terms of the aforesaid orders. On perusal of the documents, it appears that the applicant never sought to retain the possession of this accommodation on two grounds indicated hereinabove. He has filed Annexure A-4 dated 27.3.89 by which the applicant wants to convey that he sought permission for retention of the Govt. accommodation on these two grounds, but that appears to be an after thought because during the period he was away from Delhi, he had never sought any prior permission.

Though the respondents have denied the receipt of Annexure A-IV, yet the applicant has also not filed any ^{Postal} receipt which may indicate

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that a copy of A-IV was sent by Registered Post/Acknowledgement Due to the respondents and in the absence of any proof of service, we are constrained to accept the version of the applicant. As indicated hereinabove, the applicant could retain the possession only for a particular period. Before leaving for Arunachal Pradesh, the applicant should have sought permission from the respondents for retention of the quarter. In the absence of any permission, the applicant had made himself liable for payment of the amount demanded. On perusal of the rules, it appears that the applicant could retain the possession of the quarter for a period of 4 months, but the respondents contend that the applicant could retain the possession only for two months. Hence, we are of the opinion that the demand of the respondents for a period of two months is not justified. Annexure A-1 makes a demand from 25.10.80 to 28.12.82 at the market rate. This amount should not contain the market rate of rent for a period of four months. Thus, the respondents are directed to reduce the market rate of rent of 4 months from the demand made in Annexure A-1. Though Annex. R-2 provides charging of the rent either at the market rate or twice the licence fee, whichever is higher, but we decide that twice the licence fee shall be an appropriate payment by the applicant for his unauthorised occupation of Govt. accommodation. Hence, we partly allow this O.A. and direct the respondents to modify Annexure A-1 i.e. the order of demand that:

- (i) the applicant shall be charged only twice of the licence fee for his occupation of the residential accommodation and not the market rate of rent from 25.12.80 to 30.12.82;
- (ii) the applicant is not liable to pay any damages for the period 29.12.82 to 30.12.82 but only twice of the licence fee.

6. This O.A. is thus partly allowed and the parties are directed to bear their own costs.


(P.S. HABEEB MOHD.)

MEMBER (A)


(RAM PAL SINGH)

VICE-CHAIRMAN (J)