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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI  
\* \* \*

23.07.1992

OA 2415/89

COUNCIL OF SCIENTIFIC AND  
INDUSTRIAL RESEARCH & ANOTHER

...APPLICANTS

VS.

SHRI R.B. LAL

...RESPONDENT

CORAM :

HON'BLE SHRI P.C. JAIN, MEMBER (A)  
HON'BLE SHRI J.P. SHARMA, MEMBER (J)

FOR THE APPLICANTS

...SHRI A.K. SIKRI WITH  
SHRI V.K. RAO, COUNSEL

FOR THE RESPONDENT

...SHRI R.V. NAIK WITH  
SHRI O.P. KHOKHA, COUNSEL

1. Whether Reporters of local papers may  
be allowed to see the Judgement? *Yes*
2. To be referred to the Reporter or not? *Yes*

*J.P. Sharma*  
(J.P. SHARMA)  
MEMBER (J)

(P.C. JAIN)  
MEMBER (A)

(24)

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JUDGEMENT

(DELIVERED BY HON'BLE SHRI J.P. SHARMA, MEMBER (J))

The applicants herein have filed this application against one of their ex-employees, who retired from service on superannuation on 31.10.1987, praying for (i) a declaration that the retention of staff quarter allotted to the respondent, while in service is unauthorised w.e.f. 1.7.1988 and that he is liable to pay penal licence fee of Rs.2,500 p.m.; (ii) a direction to the respondents to pay the licence fee of Rs.34,882 upto the date of filing the application and a licence fee of Rs.2,500 p.m. till the vacation of the staff quarter; and (iii) a declaration to the respondent to vacate the premises and hand over the vacant and peaceful possession of the said quarter to the applicants.

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The respondent, Shri R.B. Lal filed a reply opposing the admission and also that the Central Administrative Tribunal has no jurisdiction in the matter. This point of jurisdiction was decided by our order dt. 9.10.1990 and we held in paras-7 to 10 of the said interim order that the Central Administrative Tribunal has jurisdiction in the matter of the application filed by the applicants. The same paras are reproduced below :

"It is a common ground between the parties that allotment of residential accommodation while in service is a service matter in accordance with the residuary clause of the definition of "service matters" in Section 3(q)(v) of the Act. If so, the vacation of the quarter and payment of licence fee, market rent/damages in accordance with rules, as the case may be, would also fall within the definition of "service matters. It is true that certain provisions of the Act give an impression that it is the employee who would seek redressal of his grievance in accordance with the provisions of the Act. For example, under Section 19(1) of the Act, a person aggrieved by any order pertaining to any matter within the jurisdiction of the Tribunal may make an application to the Tribunal for the redressal of his grievance. For the purpose of this sub section, "order" means an order made by the Government or a local or other authority within the territory of India or by an officer, committee or other body or agency of the Government etc. Similarly, Section 20(1) of the Act provides that the Tribunal shall not ordinarily admit an application unless it is satisfied that the applicant had availed of all the remedies available to him under the relevant rules as to redressal of grievances. These two provisions give an impression as if the application can be made only by an employee; however, in our view, it is not necessarily so. It may be mentioned here that Sections 19 and 20 appear in Chapter IV of the Act, which deals with 'Procedure'. Procedure cannot over-ride the substantive provisions of the Act. The preamble of the Act, which indicates the purpose of the legislation makes it very clear that the Act is meant for adjudication or trial of disputes and complaints with respect to recruitment and conditions of service, and matters connected therewith or incidental thereto. Though it may generally be so that the employees approach the Tribunal for redressal of their grievances, yet it does not necessarily mean that the claim cannot be lodged from the other side. If it were

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to be so assumed, then one of the parties to the dispute or claim would be left without any remedy as the Act debars the jurisdiction of all courts except the Supreme Court of India.

8. In O.A. No.449/1987, a Division Bench of the Patna Bench of the Central Administrative Tribunal had before it an application filed by the Union of India under Section 19 of the Act assailing the judgement dated 4.3.1986 and decree dated 19.3.1986 passed by the Additional District Judge IV, Monghyr. The respondent had raised a preliminary objection that the application filed by the Union of India under Section 19 of the Act was not maintainable, as such an application can be made to the Tribunal only by "a person aggrieved by any order pertaining to any matter within the jurisdiction." Rejecting this contention, the Division Bench expressed the view that the purpose of the Act is to provide for the adjudication or trial of "disputes and complaints" which could be raised by either party - the employer or the employee. In this context, reference was made to the preamble of the Act; the language of Section 19 of the Act and the definition of the word "person" in Section 3(42) of the General Clauses Act, 1987.

9. In Civil Revision No.2354 of 1989 (supra), a petition had been filed under Section 115 C.P.C. for revision of the order of the court of Senior Sub-Judge, Chandigarh dated 30.5.1989 dismissing the application of the petitioner for transferring the civil suit titled "The Council of Scientific and Industrial Research Vs. Shri Dilbagh Singh Sian" to the Central Administrative Tribunal, Chandigarh. The claim in the suit was for permanent mandatory injunction requiring the defendant to vacate a quarter allotted to the defendant while in service of the CSIR on his transfer to another place; a direction to the defendant not to interfere with the possession of the plaintiff in any manner; and for the recovery of Rs.22763.45 and future damages for wrongful use and occupation of the quarter till the vacation of the said quarter with interest. The Subordinate Judge had come to the conclusion that the matter has to be adjudicated upon by the civil court. The High Court held that the approach of the trial court is unsustainable at law. It was further held that "the allotment of residential accommodation to an employee may be pursuant to the contract of service or incidental to the service or a concession shown to the employee but it will fall within the ambit of terms of conditions of employment and if a dispute arises relating to it, the matter has to be decided by the Tribunal". It was further held that "All service matters include matters relating to conditions of service of persons in employment of society. Section 19 of the Act deals with the procedure for moving the Tribunal. Sections 14, 19 and 29 of the Act have to be

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harmoniously construed." The following observations of Viscount Simon in King Emperor Vs. Benoit Lal Sarma and others, AIR 1945 Privy Council 48 were also quoted:-

"Where the language of an Act is clear and explicit, we must give effect to it whatever may be the consequences for in the case the words of the statute speak the intention of the legislature."

10. From the foregoing, we come to the conclusion that the cause of action of the reliefs prayed for in this application falls within the definition of "service matters", and the application falls within the jurisdiction of the Central Administrative Tribunal. Thus, the Central Administrative Tribunal has jurisdiction in the matter of the application filed by the applicants. We accordingly admit the same."

The brief facts relevant to the decision of the case on merits are that the applicants are having staff quarters at various places for their employees, which are allotted to the employees and kept by them during their service tenure. The applicants have also formulated the rules and regulations for the allotment of these staff quarters to their employees, a copy of which is at Annexure A1 to the O.A. The applicant No.2 for its employees is having its staff quarters, inter-alia, at Maharani Bagh, New Delhi. The respondent was working with the applicants as Private Secretary and posted with applicant No.2. He was allotted the staff quarter being accommodation Type-IV Quarter No.IV-12, multi storeyed flats at Maharani Bagh, New Delhi as per the allotment rules of the applicants on 31.12.1983 by virtue of his being in the employment of the applicants. The respondent as per the rules could have retained the quarter for a period of four months

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after his retirement, i.e., w.e.f. 1.11.1987 to 29.2.1988 at the normal licence fee of Rs.145 p.m. and after that on request for a further period of four months on double the licence fee on medical grounds, i.e., from 1.3.1988 to 30.6.1988 at the licence fee of Rs.290 p.m. The respondent requested for retention of the quarter beyond four months of his retirement by the letter dt.11.2.1988 on the ground of the illness of his wife and he requested for the retention of the quarter for a further period of six months on normal licence fee from 1.3.1988 vide Annexure A3 to the O.A. The period was not extended and the respondent was informed vide letter dt. 25.2.1988 that his request could not be accepted for retention of quarter at normal licence fee, as per the rules and, therefore, the allotment was cancelled and retention of the quarter beyond 29.2.1988 would attract a penal licence fee of Rs.2,500 p.m. However, the respondent was allowed to retain the staff quarter on payment of double the licence fee @Rs.290 p.m. for a period of four months upto 30.6.1988. The respondent made another request vide his letter dt. 30.6.1988 and this was not acceded to vide letter dt. 29.7.1988 (Annexure A5). Thus allotment stood cancelled w.e.f. 1.7.1988. The respondent, however, has not vacated the staff quarter till date. Since the respondent has neither paid the penal licence fee as per rules nor vacated the staff quarter in spite of so many letters and reminders, hence the present application for the relief mentioned above.

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The respondent filed a reply to the application on 8.1.1990. He has also filed another reply on 30.5.1991 and additional counter affidavit was filed along with MP 1604/92 which has been taken on record. In the reply, the respondent has taken the plea that the application is not maintainable. However, this issue has already been decided separately and the MP filed by the respondent in that regard stands dismissed.

The application has been held to be well within limitation, so the respondent has not been able to show how it is barred under Section 21 of the Administrative Tribunals Act, 1985.

On merits, the respondent has taken the plea that he was asked to continue in service as he was dealing with the court cases of applicant No.2 and he was asked by written request and/or oral request to appear in the cases of applicant No.2. It is also stated that the allotment rules of the applicant are not statutory rules, that the alleged licence fee is, therefore, not binding on him, and that the alleged penal licence fee of Rs.2,500 p.m. is illegal, arbitrary and cannot be thrust upon him. Further, the respondent submitted the medical certificate for his wife and an application for retention of the quarter under coercion, duress and influence of the applicant No.2. It is further

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stated that the applicants were not entitled in law to forfeit or retain any amount (Rs. ) gratuity. Thus the applicants are not entitled to any relief. In the additional counter-affidavit, it is stated that without affording any opportunity to the respondent of hearing and without ascertaining the provisions of Government guidelines or any other provisions which are relevant or governed by applicants' society, the penalty @Rs.2,500 p.m. is without authority of law and is in gross violation of the principles of natural justice as well as arbitrary and violative of Article 14 of the Constitution. In the last, it is prayed that the application be dismissed.

We have heard the learned counsel for the parties and have gone through the record of the case. The undisputed facts are that the applicant retired from service on superannuation w.e.f. 31.10.1987, and that the respondent while working with the applicant No.2 as Private Secretary was allotted the staff quarter at Maharani Bagh, New Delhi. The applicants have filed the allotment Rules as Annexure I. Sub Rule 2 of Rule 11 is regarding the retention of a residence allotted to an officer and Sub Rule XI(b) of Rule 11 lays down the penal licence fee to be charged in the event of such allottee continuing to occupy the Government accommodation after retirement. The penal licence fee for quarter D is Rs.2,500 p.m. Rule 11(2)(ii) also provides that after

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retirement or terminal leave, the quarter can be retained for a period of four months. Rule 12(2) also provides liability to pay damages for use and occupation of the residence, service, furniture and garden charges equal to the licence fee/market rate as may be determined by CSIR from time to time. Thus the allotment Rules are clear on the point that the allotment in favour of an employee of the residence allotted on account of his employment with the applicants will come to an end after his retirement and he can only retain the said quarter for a period of four months thereafter. The respondent is no more in service of the society having retired on superannuation. He has no right to retain the premises after he has superannuated. The plea taken by the respondent that he was asked to look after some court cases is not substantiated by any correspondence or order which the applicants' society might have passed or communicated to the respondent. The applicants specifically stated that the respondent had to appear as a police witness in some case on 4.8.1988 for his cross-examination, so OM dt. 22.7.1988 was issued requesting the respondent to attend the court on 4.8.1988 for his cross-examination. This by itself will not extend the period of retention of quarter by the respondent in view of clear permission sought by the respondent in his letter dt.11.2.1988 (Annexure R 3). Not only this, but the respondent in his letter dt.24.8.1988 (Annexure 6) has

admitted that by mistake he paid double the licence fee from March, 1988 till August, 1988 though he desired readjustment of this excess amount in the subsequent months. The respondent, therefore, by his own conduct has shown that there was no specific permission granted to him to retain the quarter and also that he was not directed to look after the case work. In the letter dt. 11.2.1988 addressed to the Director, CRRI, New Delhi, the respondent has sought the permission for retention of the quarter for a period of six months from 1.3.1988. The request of the respondent was rejected on 29.2.1988 (Annexure R4) and the respondent was also informed well in time that he had to pay Rs.2,500 p.m. as licence fee for retention beyond 29.2.1988 under the provisions of the rules which envisaged charging of penal licence fee. However, the application of the respondent dt.30.6.1988 was again considered and it was made clear in the letter dt. 29.7.1988 (Annexure 5), in accordance with the allotment rules, that he shall be liable to pay a penal licence fee of Rs.2,500 p.m. w.e.f. 1.7.1988. Thus this correspondence goes to show that the applicant was never directed to take the burden of appearing in court cases on behalf of the applicants thereby or in lieu thereof allowed to continue to occupy the allotted premises beyond the permissible period. The possession of the respondent,

therefore, after his superannuation and also after the permission was not granted and any further retention of the quarter is unauthorised.

A retired employee is very much governed by the rules of service which he has undertaken to abide during the course of the employment. He cannot subsequently take the plea that such rules or such service conditions are not applicable to him. He is rather stopped.

Even for arguments sake, if it is taken for granted that the respondent was asked to look after certain case work, though it is not a fact, that will not allow the respondent to retain the quarter which was allotted to him in the course of employment. The respondent, therefore, is liable to be evicted from the said quarter.

Regarding the claim for the penal rent, the rules provide that if the retention is beyond a specific period when the allotment has ceased by virtue of the retirement of the allottee, in that case for the type of quarter, different penal licence fee is provided. During the course of the arguments, the learned counsel for the applicants has shown that the penal licence fee has been reasonably fixed in accordance with the guideline which is being adopted for the

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similar quarters under the Directorate of Estate, Ministry of Urban Development. The respondent himself for certain period paid double the licence fee, though subsequently he also stated in a correspondence with the applicant No.2 that he has paid double the licence fee under mistake. However, this was not mistake and that was provided under the relevant allotment rules (Annexure 1).

The learned counsel for the respondent has referred to the principles of natural justice and also relied on the decision of Smt. Menka Gandhi Vs. UOI, reported in AIR 1978 SC 597. The learned counsel has also referred to the authority of Central Inland Water Transport Commission Ltd. Vs. B.Nath, reported in AIR 1986 SC 1571 on the principles of natural justice. The learned counsel argued that the principle of natural justice is also a fundamental right. The learned counsel for the respondent has also argued that there is also violation of Article 14 of the Constitution of India. We have also gone through the authorities, but the same are not at all applicable to the facts of the present case. What the respondent wants is that before the penal licence fee is determined, he should have been given an opportunity of hearing. But in this case, the allotment rules are invogue since 1983 and the applicant was given the premises in question by way of allotment under the same rules. After his superannuation, he wants that an opportunity of hearing be

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provided to him before the penal licence fee is charged from him. The respondent very well knew at the time when he was allotted the premises that in the event of the allotment of the premises coming to an end, he would have to pay penal licence fee as prescribed. It is not in the case of the respondent alone, but for various categories and classes of the quarters, different penal licence fee has been provided. In the case of respondent, therefore, it was not necessary to hear him. In any event, the respondent was very much told in February, 1988 and again in July, 1988 that retention of the quarter by him beyond the permission given to him after his superannuation would entail him the consequences of paying penal licence fee. The respondent, therefore, was given ample opportunity and now there arises no question that the principles of natural justice have been violated. The respondent has no right to retain the said quarter beyond the period he was permitted after his superannuation and his continued occupation is, therefore, totally unauthorised and illegal.

In view of the above facts and circumstances, the respondent has no case and he is liable to be evicted as well as to pay the penal licence fee @ Rs.2,500 p.m. from the date permission was not accorded to him for further retention of the quarter till the date he hands over possession to the

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applicants. The application is, therefore, allowed and the respondent is directed to vacate the said premises within a period of one month from the date of communication of this order and pay to the applicants the penal licence fee @Rs.2,500 p.m. w.e.f. 1.7.1988 till the date of handing over possession to the applicants. In case the respondent, defaults, then the applicants may get the possession of the premises from the same agency after evicting the respondent in the same manner as is available to the Director of Estates in respect of Central Government pool accommodation. No costs, <sup>✓</sup>

*J. P. Sharma*

(J.P. SHARMA)  
MEMBER (J)

*P. C. Jain*

(P.C. JAIN)  
MEMBER (A)