

6

Central Administrative Tribunal
Principal Bench, New Delhi.

CA-394/89

New Delhi this the 8th Day of April, 1994.

Hon'ble Mr. B.N. Dhoundiyal, Member(A)

Shri K. Singh,
S/o late Sh. Lala Babu Varshney,
R/o 270 Gagan Vihar,
Delhi-51.

Applicant

(Through Sh. George Paricken, proxy counsel for
Sh. P.P. Khurana)

versus

1. Central Board of Direct Taxes,
through the Chairman,
North Block,
New Delhi.
2. The Accounts Officer,
Zonal Accounts Office,
Central Board of Direct Taxes,
North Block, Vikas Bhawan,
New Delhi.
3. The Income Tax Officer(P&H),
Office of the Chief Commissioner
(Admn) of Income Tax,
C.R. Building, I.P. Estate,
New Delhi.
4. The P.A.O.No.3,
Delhi Administration,
R.K. Puram,
New Delhi.

Respondents

ORDER(ORAL)
delivered by Hon'ble Mr. B.N. Dhoundiyal, Member(A)

In this O.A. the applicant Sh. K. Singh has challenged levy of damages for the government quarter occupied by him, vide impugned order dated 17.12.87.

The applicant has retired as Commissioner of Income Tax on 30.6.1986. At the time of his retirement, he was in occupation of a general pool

accommodation D-1/1, Vinay Marg, New Delhi. Vide letter dated 11.11.1986, he was allowed to retain the accommodation upto 28.2.1986. The last extension was given upto 31.12.1987 and he vacated the accommodation on 28.12.1987. In the impugned order dated 17.12.87, the rent payable has been calculated on the following basis:-

1)	4 months on payment of normal rent i.e. from 1.7.86 to 31.10.86 (4x148.95)	= 595.80
2)	4 months on payment of double of the standard rent w.e.f. 1.11.86 to 28.2.87 i.e. 4x297.90	= 1191.60
3)	6 months on payment of market rent w.e.f. 1.3.87 to 31.8.87 Market rent=131 sq.mt.x7.16= 938/month	= 5628.00
4)	4 months on payment of damages w.e.f. 1.9.87 to 31.12.87 Rs. 21x131 sq.mt.=2751	<u>=11004.00</u> 18419.40
5)	Recovery of licence fee paid lesser than the payable for previous periods	<u>= 1276.00</u> 19695.40
	Rent already paid 266+3000+5212.40	<u>= 8478.40</u>
	<u>Rent Payable</u>	<u>= 11217.00</u>

What is under dispute is item No.4 by which damages have been levied to the extent of Rs.11004/-.

The learned counsel for the applicant has drawn my attention to the provisions of O.M. dated 17.8.1987 which provides 'in the case of occupants whose allotments have been cancelled and necessary eviction proceedings under the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 have been finalised and the period of 30 days allowed for the vacation of the premises has expired, damages at three times the pooled market rate of licence fee per month for the accommodation in type II to VIII under unauthorised

8

occupation should be recovered till the date of vacation/physical eviction'. It is the contention of the learned counsel for the applicant that he can't be deemed in unauthorised occupation as vide letter dated 25.11.1987, the courts permit for retaining flat upto 31.12.1987 on payment of rent as per rule was conveyed to him. Even though a notice for eviction was given as admitted by the respondents in their counter, this was kept in abeyance and it can't be said that all the proceedings under Public Premises Act, 1971 have been finalised in his case. He, therefore, contends that the applicant is not liable to pay any damages.

This case was called in the revised list, no one is present on behalf of the respondents. I, therefore, proceed to decide the case on the basis of the pleadings and the submissions made by the learned counsel for the applicant.

The only ground taken by the respondents is that the rules do not provide for another extension beyond the period of 8 months from the date of retirement and as such the applicant's contention that he was allowed to retain the accommodation upto 31.12.1987 is not correct. However, it is a fact that the board did permit him to retain this accommodation upto 31.12.1987 ^{by presumably order of} SR 317-B-25 of the allotment of Government Residences (General Pool in Delhi) Rules, 1963 ^{by} ~~provides~~ for relaxation of rules, which reads as under:-

"The Government may for reasons to be recorded in writing relax all or any of the provisions of the rules in this Division in the case of any officer or residence or class of officers or type of residences."

2/11

9

I, therefore, hold that the applicant can't be treated as an unauthorised occupant for this period and only market rent could be payable by him for the period from 1.9.1987 till the date of vacation. The respondents are directed to recalculate rent ^{to payable on} ~~payable~~ for this purpose and any excess amount recovered from the applicant shall be refunded to him. These orders shall be implemented expeditiously and preferably within a period of three months from the date of communication of this order.

No costs.

S. N. Dhoundiyal
(S. N. DHOUNDIYAL)
MEMBER (A)

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