

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,  
PRINCIPAL BENCH,  
NEW DELHI.

Date of Decision: 16.07.92.

OA 777/89

MADAN LAL

... APPLICANT.

Vs.

C.S.I.R.

... RESPONDENTS.

CORAM:

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

For the Applicant ... SHRI K.N. BAHUGUNA.

For the Respondents ... SHRI A.K. SIKRI.

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

JUDGEMENT (ORAL)

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

The applicant is a Technician in the Central Workshop of Road Research Institute which is a unit of Council of Scientific & Industrial Research (CSIR) and has filed this application having the grievance that the damages for use of accommodation No.C-10, Maharani Bagh, New Delhi at the penal rate w.e.f. 15.4.85 was charged till he vacated the premises in December, 1985, at the rate of Rs.2000/- pm. i.e. a total of Rs.18000/- in installments from his monthly salary. The applicant has made representation cum appeal as titled by the applicant himself which by the order dated 17th October, 1988 (Annexure A-14) has been re-examined and rejected.

The applicant has prayed that the order dated 23.7.85 (Annexure A-10) be quashed being arbitrary, illegal and unfair and as a consequence the respondents be directed to reimburse the amount of Rs.18000/- deducted from his monthly salary. He has also claimed interest.

The facts of the case are that the applicant was allotted Quarter No.C-10 on 27.6.80 by the respondents in their flats in Maharani Bagh on normal licence fee, which has been disclosed at the time of arguments at Rs.105/- p.m. The applicant was issued a Memo asking him alongwith other employees to fill-up a proforma asking for certain information. Subsequently on August 9, 1984, the applicant was issued another Memo i.e. violation of Rule 19 of the CSIR Allotment Rules and as such has rendered himself liable for disciplinary action besides an action of the cancellation of the allotment and charge of the penal rent. The applicant submitted a reply to that notice and after considering the same respondents passed an order dated 14.2.85 holding the applicant liable for violation of Rule 19 of the CSIR Allotment Rules and imposing at the same time the penalty of vacating the quarter within 60 days thereof and also payment of penal rate of rent @ Rs.2000/- p.m. after the expiry

of 60 days i.e. from 15.4.85. The applicant did not vacate the said quarter, so, on 30.4.85 an order was passed for payment of Rs.20000/- p.m. by the applicant. His request for not charging penal rent was not acceded to and was rejected by the order 16.5.85.

The respondents contested the application on the ground that the applicant has sublet the premises against the rules. It is further contended that the applicant himself was not living in the said premises. Various other averments made in the application have also been denied. It is further stated that the penal rate of rent has been charged as per Prevalant Rules under which the premises were allotted to the applicant himself. Thus, it is stated that the applicant has no claim for refund of Rs.18000/- deducted from his salary on the basis of the order dated 14.4.85.

I have heard the learned counsel for the parties at length. It is not disputed that a committee consisting of four members was constituted for a surprise check of un-authorised subletting of CSIR quarters in Maharani Bagh. Besides the applicant the flats allotted to many other employees were also checked and inspected. In Qr. No.C-10 one Shri Alreja, outsider was found residing. On the basis of this, the respondents have drawn the proceedings under

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Rule 19 of the CSIR Allotment Rules and gave due opportunity to the applicant to represent his version. The respondents, alongwith reply have also filed a Voter List of Ward No.9 Okhla of 1983 South Delhi Lok Sabha Election. At House No.C-10 at Sl.No.1057 to 1060 the name of one Shri Alreja and his family is recorded. The name of the applicant is not there. Though the applicant was allotted the premises in June, 1980. Alongwith rejoinder, the applicant has filed a photo-copy of CGHS Card and of the Ration Card. The respondents have considered this matter and held that the applicant has sublet the Qr. No.C-10, Maharani Bagh, New Delhi and violated Rule 19 of the CSIR Allotment Rules.

The learned counsel for the applicant argued that the said outsider Shri Alreja is the husband of applicant's sister. It is not evident from the electoral list of the Lok Sabha of 1983 election. As many as four members of the family of Shri Alreja were residing in the premises. The Ration Card as well as the CGHS Card only can go to show that the ration was obtained or the treatment was got done on the basis of these documents respectively. The absence of the name of the applicant and as many as five members of his family besides himself from the electoral list aforesaid makes it less believable that the applicant occupied the said quarter or resided there. Here it

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may be repeated that the allotment is of June, 1980 and the electoral list of 1983 and about six months before the election necessary corrections is got done. It may be that a person may not be interested in pursuing a matter like this or getting his name entered but the entry of the name of Shri Alreja go to show that staff of the election office or somebody on their behalf visited the premises as otherwise the name of Shri Alreja who was never an occupant of this house earlier would have been entered in the electoral list. Thus, I find that the finding arrived at of violation of Rule 19 of the CSIR Allotment Rules cannot be said to be arbitrary inmuchas as it lays down that the applicant has sublet the premises to Shri Alreja.

However, the respondents themselves have again allotted the premises C-21 to the applicant though after the period of three years. The applicant is still in service of the respondents. The applicant has also not challenged various orders passed against him and it goes to show his utmost respect for his superiors. He, in his own way meekly and silently agitated the matter. It calls for a magnanimous approach from the respondents too. It is evident that even after deduction of Rs.18000/- he did not take any proceeding and only after three years made a representation requesting for the refund of this amount. It has also been urged by the learned

counsel for the applicant that during of this period when the deduction of Rs.18000/- was made and the admissible HRA was also not paid to the applicant. Thus, the damages of penal rate of rent if the amount of HRA is taken into account accèeds the amount prescribed in the CSIR Allotment Rules and that shall be inequitable, unfair and unjust. The learned counsel for the respondents referred to the decision of P.G. Varugnese Vs. Joint Secretary, CSIR, reported in 1988 (1) ATJ 625, in which para 9 of the judgement is the same and is reproduced below:-

"In accordance with Rule 11(2)(iv), when a officer is transferred to place outside the laboratory where allotment was made, the permissible period for retention of the residence is two months. In this case, this period was extended till 15.5.83 on payment of normal licence fee and on payment of double the standard rent for a period of six months. Thereafter, there has not been any approval for retention of the accommodation and the applicant was categorically informed on 23.12.83 that he would be liable to pay the penal rent, in terms of CSIR letter dt. 3.11.83. As per rule 11(3), the applicant's allotment should be deemed to have been cancelled from 16.11.83 and as such is liable to pay the penal licence fee in items of Rule 11(2)(xi)(b)."

Having taken into account all these facts I find no merit in this application but I do find that while disposing of the representation of the applicant due consideration of length of his service and the liability of growing children has not been taken into account. Besides, he has also not been paid HRA for

that period, according to the applicant. However, it shall be open to the applicant to make another representation to the respondents, who may, if so desire, may consider the matter again in the light of the judgement. However, the disposal of the representation at the end of the respondents will not give any cause of action to the applicant to come again on the above grievance.

The application is dismissed as devoid of merit. In the circumstances, parties to bear their own costs.

*J. P. Sharma*  
( J.P. SHARMA )  
MEMBER (J)  
16.07.92