

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
NEW DELHI

O.A. No. 1261/ 1988.  
~~F.A. No.~~

DATE OF DECISION November 10, 1989.

Shri L.D. Bonnell Applicant (s)

Shri A.K. Tewari Advocate for the Applicant (s)

Union of India <sup>Versus</sup> Another Respondent (s)

Shri P.P. Khurana Advocat for the Respondent (s)

CORAM :

The Hon'ble Mr. P.C. Jain, Member (A).

~~The Hon'ble Mr.~~

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. To be circulated to all Benches of the Tribunal ?

yes.  
yes.  
No.  
No.

JUDGEMENT

In this application under Section 19 of the Administrative Tribunals Act, 1985, the applicant, who is Director, Postal Staff College India, New Delhi, has challenged orders dated 21.4.1988, 14.4.1988 and 16.5.1988 and has prayed that the impugned demands in these orders (Annexure A collectively) be quashed.

2. In the order dated 21.4.88, the applicant was allowed, with reference to his direct representation dated 1.4.87 and 11.4.88 to retain flat No. DI/183 and garage No. DI/88, Chanakya-puri for a period of six months, i.e., from 14.3.87 to 13.9.87 on payment of twice the standard licence fee under FR.45-A or twice the pooled standard licence fee under FR.45-A or twice the licence fee already being paid by him, whichever is highest subject to maximum of 30% of his emoluments, on medical grounds. He was also informed that he will be charged damages and licence fee for the premises at damages rate beyond 13.9.87 till the date of vacation i.e., 24.3.88 (A.N.). In the impugned order

dated 14.4.1988, he was informed with reference to letter dated 27.3.87, that he had continued to remain in the premises beyond the authorised period and that a sum of Rs.13,548.75 for the period upto February, 1988 should be deposited by him. In the impugned order dated 16.5.88, the amount outstanding against the applicant was shown to be Rs.20,329.80 as per details given below: -

Upto 13.3.87	Rs.650.30
From 14.3.87 to 30.6.87 @ Rs.376/-	0 0 0 2460.80
From 1.7.87 to 13.9.87 @ Rs.458/-	0 0 0
From 14.9.87 to 24.3.88 @ Rs.3472/-	22015.50
Total	25126.60
Less paid	(-) 4796.80
	<u>20,329.80</u>

3. The salient facts of the case, in brief, are as below: -

The applicant belongs to the Indian Postal Service Group A and is borne on the Senior Administrative Grade. He was posted as Deputy Director General (Mail Operations), Postal Directorate. Vide order dated 14.1.1987, he was transferred from this post and posted as Director, Postal Staff College, New Delhi. Officers of the Indian Postal Service are entitled to allotment of residential accommodation while posted at Delhi from two pools, viz., Postal Pool under the Post Master General, Delhi Circle and General Pool under the Directorate of Estates, Ministry of Urban Development. While posted as Deputy Director General (Mail Operations), Postal Directorate, the applicant was entitled to accommodation from the General Pool and was allotted flat No.D.I/183 with garage No.D.1/88, Chanakyapuri, New Delhi. As Director, Postal Staff College, New Delhi, he was ineligible for allotment from the General Pool and was to be allotted accommodation from the Postal Pool. Admittedly, on transfer he was entitled to keep the

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premises allotted to him while posted in the Postal Directorate for a period of two months. Vide his letter dated 20.1.1987, he requested the Director General, Directorate of Posts, New Delhi to take up with the Director of Estates the possibility of exchanging the Type V accommodation which was to become available to the Postal Department due to Shri Ajoy Bagchi becoming entitled to accommodation from the General Pool, with the quarter allotted to him. He also mentioned therein that his wife had just undergone a major operation and had been advised total and complete rest for at least six months and he was, therefore, in no position to move out of his present accommodation at present. This proposal was taken up by the Department with the Directorate of Estates in their letter dated 30.1.1987 and it was proposed therein that the accommodation of Qr. No. D-I/183, Chanakyapuri may be exchanged with the double room suite in Curzon Road Apartments occupied by Shri Ajoy Bagchi. This request was turned down by the Directorate of Estates, vide letter dated 27.3.87, with a copy to the applicant also. He directly represented to the Directorate of Estates, vide his letter dated 1.4.1987, in which he stated that he was not able to move out of his present quarter for some more time and that he may be allowed to retain his present quarter till September, 1987. The Secretary of the Department also wrote about the exchange proposal to Secretary, Ministry of Urban Development, vide letter dated 4.4.1987. With reference to the applicant's representation dated 1.4.87, he was informed by the Directorate of Estates, vide letter dated 18.6.87 that after careful consideration, his request could not be acceded to as it is not covered under the rules and also because there is acute shortage of general pool accommodation. A notice dated 29.7.87 was also issued by the Estate Officer under Section 4(1) and under Section 4(2)(ii) of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971, asking the applicant to show cause by 21.8.87 as to why an order of eviction should not be made. The applicant, vide

his letter dated 19.8.1987 wrote to the Deputy Director of Estates that the notice is premature as the matter was still under consideration at the higher level. Secretary, Ministry of Urban Development, in his reply dated 9.11.87 to Secretary, Department of Posts, intimated that the applicant is no longer eligible for general pool accommodation and his request for retention of the flat in his possession could not be acceded to. It was also stated that since the Hostel accommodation offered in lieu thereof was not equivalent to it, the mutual exchange could not be agreed to. It was further stated that DI Ground Floor flats are most popular flats in the General Pool and there is a very long waiting list for allotment of such flats to senior Joint Secretaries and other eligible officers. Secretary, Department of Posts, in his letter dated 2.12.1987, offered another quarter at T-23, Atul Grove Road, in exchange for the accommodation in occupation of the applicant. The request was again rejected vide Ministry of Urban Development letter dated 1.2.88. The Estate Officer, vide his letter dated 10.2.88 directed the applicant to vacate the quarter on or before 15.4.1988. He actually vacated it on 21.2.88. In the meantime, the Department of Posts had sent a copy of the Ministry of Urban Development letter dated 1.2.88 (supra) to the applicant on 10.2.1988 for information and necessary action.

4. The case of the applicant is that exchange of accommodation between the Postal Pool and the General Pool has taken place in the past and he has also cited in his application and with its enclosures specific cases. He has, therefore, pleaded that refusal of exchange by respondent No.3 in his case was arbitrary, mala-fide, illegal, unjustified and biased.

5. The respondents, in their reply, took a preliminary objection that the application was barred under Sections 10 and 15 of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971. They have not denied that there has

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been the practice of mutual exchange of flats under the control of respondent No.1 and the Office of Post Master General, Delhi Circle as and when the officers are transferred from the office of Post Master General, Delhi to the Postal Directorate or vice versa. They have, however, asserted that such exchanges are agreed upon only in the cases where the proposed exchange of flats between the Directorate of Estates and the Post Master General Pool are of equivalent type and where there is a liability on the part of respondent No.1 to provide General Pool accommodation to the officer serving in the Postal Directorate. It is further stated that unless and until the date of priority of the officer of the Postal Directorate in occupation of Post Master General Pool flat, is covered in the General Pool, no exchange is allowed. In the present case, the proposed exchange was between a Hostel type accommodation and a regular type-V accommodation where the Directorate of Estates was at a disadvantage and it was, therefore, decided by the competent authority to reject the proposal for exchange. They have also stated that the applicant had requested for retention of Government accommodation till September, 1987 and he was finally allowed to retain it upto 13.9.1987 i.e., first two months after transfer at normal licence fee and for another six months as permissible under the rules on payment of double the pooled standard licence fee (from 14.3.87 to 13.9.87). They have, therefore, urged that retention of the general pool accommodation by the applicant from 14.9.87 to 24.3.88 was unauthorised and he was liable for payment of damages etc. and for eviction proceedings in accordance with the rules/provisions of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971.

6. I have gone through the papers carefully and have also heard the learned counsel for the parties.

7. The applicant has alleged mala-fide, but has not given any particulars in this regard. He has also not produced

any evidence in support of this allegation. The thrust of the arguments advanced on behalf of the applicant was that if the mutual exchange had been allowed, the occupation of the premises by the applicant could not have become unauthorised and, therefore, no damages would have been payable and, as such, the claim of dues from him is illegal.

8. The learned counsel for the respondents did not press for the preliminary objection about the maintainability of the application.

9. I am not impressed by the contentions of the applicant. He has not been able to show any provision of rule or order under which respondent No.1 was bound to accept the proposal for mutual exchange of accommodation between the general pool and the postal pool. The fact that such an exchange has taken place in the past has not been denied by the respondents, but in their reply they have mentioned the criteria which the applicant has not been able to refute. It may be mentioned that in spite of a number of opportunities allowed, no rejoinder has been filed by the applicant. He himself in his representation dated 1.4.1987 asked for permission to retain the quarter in question till September, 1987. He has been allowed to retain it for the period upto 13.9.87, i.e., the maximum period permissible under the rules. The letter sent by his Department at the level of the Secretary was also replied to and the reasons for not accepting the Department's proposal were clearly spelt out, and his own Department sent a copy of the final reply of the Ministry of Urban Development to him on 10.2.88 for information and necessary action, but even then he did not vacate the premises, until 24.3.88. The eviction proceedings have been taken in accordance with the provisions of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 and the applicant has failed to show any legal infirmities in these proceedings. He has also not shown anything as to why the amount claimed from him is not otherwise payable. On the other hand, the respondents have quoted the provisions of S.R. 317-B-22 in

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support of their claim, as also the provisions of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971. Thus, I find that the application is devoid of any merit.

10. In view of the above discussion, the application is rejected. The parties will bear their own costs.

*(Sd/- 14/11/89)*  
(P.C. JAIN)  
MEMBER(A)