

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

O.A. No. 1116/ 1988.
T.A. No.

DATE OF DECISION October 30, 1989.

Tilak Raj Gupta Applicant (s)

Shri B. Krishan Advocate for the Applicant (s)

Union of India & Ors. Respondent (s)

Shri P.P. Khurana Advocate 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 ? *Yes.*
2. To be referred to the Reporter or not ? *Yes.*
3. Whether their Lordships wish to see the fair copy of the Judgement ? *No.*
4. To be circulated to all Benches of the Tribunal ? *No.*

JUDGEMENT

This is an application under Section 19 of the Administrative Tribunals Act, 1985, in which the applicant who is working as a Lower Division Clerk in the office of Director General of Works, CPWD, New Delhi, has prayed for the following reliefs: -

- "(i) Set aside the illegal recoveries of arrears of damage charges effected from the salary of the month of August, 1987 to May, 1988 from the applicant except Rs.75/- per month.
- (ii) Set aside the letter No.211/TG/TB(B)/81 dated 15.1.88 so far it contains directions to pay Rs.19,000/-.
- (iii) Set aside the letter Nos.221/Vol. II/87-89-XILC Rent dated 16.7.88 and 6010/TB/Damages 87-89 dated 9.3.88 issued by the Directorate of Estates to the Director General (Works) for deduction of Rs.899/- and Rs.668/- from the monthly salary of the applicant.

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(iv) Direct the respondent No.3 to regularise Quarter No. C-2/170 in favour of the applicant and recover only the licence fee payable under the rules.

(v) Issue directions that normal licence fee be recovered from the applicant in respect of Qr. No. C-2/12 cancelled from his name.

(vi) Pass such order or orders as this Hon'ble Tribunal considers fit and reasonable in the interest of justice."

The applicant filed M.P. No.884/89, by which, he, inter-alia, prayed for amendment of relief (iv) above by insertion of the following words at the end of the clause:

"from the date of cancellation of the said quarter".

His prayer for insertion of the above words in relief (iv) was allowed vide order dated 25.4.89 passed by Hon'ble Shri B.C. Mathur, Vice Chairman.

2. The facts of the case, in brief, are as under: -

Consequent upon the death of his father (late Shri H.R. Gupta) on 26.1.80, the applicant was appointed as LDC on 25.9.1980 on compassionate grounds. The applicant's father was an allottee of Quarter No. B-4/58, Lodi Colony (Type III accommodation). The applicant was sanctioned a Type II accommodation on compassionate grounds and was offered allotment of Type II accommodation first on 11.6.81, and on two other subsequent occasions but he refused to accept the allotment. He was finally allotted Qr. No.C-2/12, Lodi Colony, New Delhi w.e.f. 20.8.82. On the occasion of marriage of the applicant, he got another Quarter No.C-2/170, Lodi Colony, New Delhi allotted in his name on 10.6.87. This allotment was for a short period from 10.6.87 to 21.6.87 to be used for marriage purpose only, but the applicant did not vacate this accommodation as well. The Directorate of Estates, vide its letter dated 23.7.1987 to the Section Officer, D.G. (A), C.P.W.D., Nirman Bhawan, New Delhi, with a copy to the applicant, informed that the allotment of Qr. No. C-2/170, Lodi Colony, New Delhi was deemed to

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have been cancelled in his name w.e.f. 21.6.87 (A.N.), and he was liable for payment of penal Market Rent in respect of the entire premises for the period of overstay. In the meanwhile, his mother Smt. Chandrawati Devi sent a representation to the Additional Director (Estates), Directorate of Estates, New Delhi, dated 18.5.1987 (Annexure A-I to the Application) to the effect that the applicant had threatened her and other dependent members of the family to throw them out of the accommodation No.C-2/12, Lodi Colony, and as a result, the allotment of the said accommodation was also cancelled vide orders dated 31.7.87. Consequent upon the failure of the applicant to vacate Quarter No.C-2/12, Lodi Colony, the Estate Officer passed a final eviction order on 26.10.87 and the applicant was evicted from the said premises on 27.12.87. The applicant is, however, still retaining Quarter No.C-2/170, Lodi Colony which was allotted to him only for 12 days for marriage purpose.

3. The case of the respondents is that the applicant was asked to clear a sum of Rs.19,000/- approximately, pending against him in respect of Qr. No.B-4/58, Lodi Colony, which had been allotted to his father, and Qr. No.C-2/12, Lodi Colony, which was allotted to him and was vacated on 27.12.87. The plea of the respondents is that before his request for regularisation of Qr. No.C-2/170, Lodi Colony, could be processed, the applicant has to clear the dues in respect of the accommodation allotted to the deceased Government servant, in accordance with Office Memorandum No.22013(7)/81-Pol. II, dated 13.7.1981 (Annexure A-VII to the reply of the respondents).

4. The plea taken by the applicant is that the proceedings for recovery of damage charges in respect of Qr. No. B-4/58, Lodi Colony, which had been allotted to his father, were taken against Smt. Chanderwati Devi, mother of the applicant, and the notice dated 27.9.85 issued by the Assistant Collector-II, Grade-R, Tis Hazari, Delhi for

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recovery of Rs.14109.35 was in the name of Smt. Chanderwati Devi as arrears of Land Revenue and not in his name (Annexure A-3 to the Application). According to him, after referring the case to the Collector, the Directorate of Estates has no legal right to claim damage charges of Rs.19,000/- from the applicant as liability has already been legally and finally determined by the competent court. The applicant has, therefore, prayed that the recoveries of arrears of damage charges already effected from his salary for the months of August, 1987 to May, 1988 (at the rate of Rs.899 per month from August 1987 to January 1988 and at the rate of Rs.668 per month from March 1988 to May 1988) except Rs.75/- per month (as deducted for the month of February, 1988) are illegal and be set aside. Similarly he has prayed that other orders in regard to recovery of arrears as contained in letter dated 15.1.1988 (Annexure A-4 to the Application), dated 16.7.87 (Annexure A-5 to the Application) and dated 9.3.88 (Annexure A-6 to the Application) issued by the Directorate of Estates be set aside and respondent No.3 be directed to regularise Quarter No.C-2/170, Lodi Colony, in his favour and recover only the licence fee payable under the rules from the date of cancellation of the said quarter, and that only normal licence fee be recovered from him in respect of Qr. No.C-2/12 cancelled from his name.

5. I have carefully considered the pleadings as also the oral submissions made at the bar. The liability to pay the licence fee/market rent/damages etc. for Quarter No.B-4/58, Lodi Colony, was that of the father of the applicant to whom it had been ~~xxxvisxxxix~~ allotted and after his father's death on 26.1.80 of his heirs. However, as stated in para 4 above, these dues are to be recovered from Smt. Chanderwati Devi, mother of the applicant, as a recovery certificate for recovery of the dues as arrears of land revenue is stated to have already been issued in the name of Smt. Chanderwati Devi. The licence fee/market rent/damages etc. in respect of

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Qr. No. C-2/12, Lodi Colony, which was allotted to the applicant with effect from 20.8.82 has to be paid by the applicant. This is also provided for in clause (1) of S.R. 317-B-13. The plea regarding discord in his family and other circumstances appear to have been raised by him with a view to escape the liability for payment of these dues, and the same are not convincing. In the circumstances of the case, the stand of the respondents that the request of the applicant for regularisation of Qr. No. C-2/170, Lodi Colony, in his name, could be acceded to only after he clears the licence fee etc. in respect of the accommodation allotted to the deceased Government servant may not be fair and reasonable to accept as otherwise the applicant would be left without any residential accommodation. However, the applicant would be entitled to such regularisation, or allotment of an alternative accommodation, if he clears all dues in respect of Qr. No. C-2/12, Lodi Colony, as also in respect of Qr. No. C-2/170, Lodi Colony, which he occupied respectively on 20.8.82 and 10.6.87. As the applicant is a low paid employee, the recovery of the amounts due from him should be made by the respondents in easy instalments after he executes a security bond with surety on the analogy of the provision in clause (2) of S.R. 317-B-13.

6. I, therefore, order and direct the parties as follows: -

(1) The respondents shall not recover any licence fee/market rent/damages etc. from the applicant in respect of Qr. No. B-4/58, Lodi Colony, which was allotted to his father as the liability for payment of the said dues has been assessed to be that of his mother Smt. Chanderwati Devi and action accordingly to recover the same as arrears of land revenue has already been initiated.

(2) The respondents shall regularise Qr. No. C-2/170, Lodi Colony, in the name of the applicant, or, provide him an alternative accommodation of the

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type to which the applicant is entitled under the rules after he clears all the dues in respect of the said quarter and of Quarter No. C-2/12, Lodi Colony, or after he executes a security bond with a surety as described in para 5 above, and pays the dues in instalments as may be fixed by the respondents.

7. The parties shall bear their own costs.

(P.C. JAIN)
MEMBER(A)