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Central Administrative Tribunal
Principal Bench, Delhi.

REGN. NO. OA 1195 of 1986 Date of decision 3.12.87

Shri K.K. Kamra Applicant

Vs.

1. Union of India through Secretary,
Ministry of Urban Development,
Nirman Bhavan, New Delhi.

2. Delhi Administration
(through Chief Secretary)

3. Director of Estates,
Ministry of Urban Development,
Nirman Bhavan, New Delhi.

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Respondents

4. Asstt. Estates Manager,
(Directorate of Estates,
Ministry of Urban Dev.), N.H.IV,
Faridabad.

5. Asstt. Collector Grade (1),
(Shri JB Mathur)
Room No. 9, Old Civil Supply Bldg.,
Tis Hazari Court, Delhi.

6. Shri AB Sen Gupta,
Asstt. Estate Manager,
N.H. IV, Faridabad.

Shri R.P. Oberoi Advocate for the applicant

Shri P.P. Khurana Advocate for the respondents

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Hon'ble Shri B.C. Mathur, Vice-Chairman.

This is an application under Section 19 of the Administrative Tribunals Act, 1985 against the impugned order No. EO/DRC/2/86-87 dated 8th May, 1986 by the Estate Officer-cum-Asstt. Estate Manager, Govt. of India, NH-IV, Faridabad (Respondent No.4) read with Notice No. 284/EOD/86/2860 dated 12.12.86 issued by Asstt. Collector Grade I, Tis Hazari Courts (Respondent No. 5) calling upon the applicant to pay a sum of Rs. 22926.60 shown as arrears towards damages in connection with the house allotted to him.

2. The brief facts of the case are that the applicant joined the Delhi Administration as a Lower Division Clerk in 1961 and is presently posted as U.D.C. in the Directorate of Health Services, Delhi Administration. He was allotted Quarter No. 514

(Type II) Sector IV NIT, Faridabad on 21st December, 1966 while he was working as an LDC in the Land and Building Department under Delhi Administration. In 1976, the applicant was posted to the Office of the Registrar, Chit Funds, Delhi, an office under the control of Respondent No.2, and he remained in that office till 31st October, 1978. Thereafter, he has been transferred to various offices under Delhi Administration. He was in the Director of Education from 1.11.78 to 31.12.79, in the Directorate of Training and Technical Education from 1.1.80 to 31.7.82, in the I.T.I., Nizamuddin from 1.8.82 to 31.12.83 and thereafter in the Directorate of Health Services, Delhi.

3. In 1980, when the applicant was working in the Directorate of Training & Technical Education, Respondent No.4 issued a notice to him to show cause against eviction proceedings and recovery of damages for unauthorised occupation of Govt. accommodation on the ground that the applicant while working in the office of Registrar, Chit Fund, was not eligible for allotment of accommodation. This notice was issued after a period of more than one year after the transfer of the applicant from the said office to the office of the Directorate of Education, Delhi. The applicant made representations that the office of the Registrar, Chit Fund, was an eligible office for allotment of accommodation. Respondent Nos. 2 and 3 also repeatedly informed Respondent No. 4 that the office of the Registrar, Chit Fund, was an eligible office and that the threatened action of eviction proceedings and recovery was unwarranted. The applicant also cited the cases of a number of employees in the office of the Registrar, Chit Fund, who had been offered/allotted Government accommodation by Respondent No.3 and who remained in occupation of Govt. accommodation without any objection. The Superintendent, Chit Funds, Delhi Administration, also clarified that his office was an eligible office for Govt. accommodation. Ignoring all the petitions of the applicant and disregarding the certificate issued by various officers of Respondent No.2, and not paying any heed to the directions issued by Respondent

No.3, Respondent No. 4 issued a notice under Section 5 of the Public Premises Eviction Act 1971 on 27.7.84 for eviction of the applicant from the quarter allotted to him in Faridabad. Left with no other alternative, the applicant filed an appeal in the Court of the District Judge, Faridabad. The appeal was admitted and stay granted. In the meantime, the applicant was allotted alternative accommodation in New Delhi. He, therefore, vacated his quarter at Faridabad and after vacating the quarter, withdrew his appeal in the court of the District Judge, Faridabad.

4. On 15.6.84, Respondent No.4 wrote to Director, Health Services of Respondent No.2 that an amount of Rs. 5504.50 representing market rate of licence fee plus water charges should be recovered from him. Vide another letter dated 11.7.85 (Annexure IX to the application), Respondent No. 4 wrote to the Directorate of Health Services that an amount of Rs. 24,346.00 was outstanding against the applicant. Under the Public Premises (Eviction of Unauthorised Occupants) Act, 1971, Respondent No. 4 issued a notice calling upon the applicant to show cause by 29.5.86 why an order to pay damages amounting to Rs. 22,926.60 together with interest should not be made. The applicant made a representation on 28.5.86 to Respondent No.4 that he had been posted to the office of the Registrar, Chit Funds, Delhi by Respondent No.2 and that office of the Registrar, Chit Funds, was an eligible office and requested for dropping the proceedings. This was, however, ignored by Respondent No.4. The applicant has come to the Tribunal against the charging of penal rent ^{or damages} from him for the period 1976 to 1985.

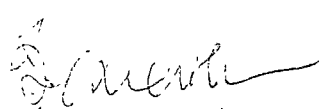
5. The respondents in their reply have mentioned that the staff of the Registrar, Chit Funds, is not eligible for General Pool accommodation at Delhi/Faridabad and as such recovery of damages has to be made at market rent. It has been stated that merely because Government quarters were allotted to various other persons in the office of the Registrar, Chit Funds, cannot justify the applicant staying in a Government quarter.

6. After hearing the advocates on both sides, I am left with no doubt that this is a clear case of harassment of the applicant by the Directorate of Estates, Faridabad, which led him first to go to the court of the District Judge and now before the Tribunal. The quarter was allotted to him while he was working under Delhi Administration. Delhi Administration posted him to the office of the Registrar, Chit Funds, where not only he but many others were residing in Govt. accommodation. No action was taken by the Directorate of Estates to cancel the allotment of the applicant when he was working in the office of the Registrar, Chit Funds, but issued a notice to him after one year of his relinquishing that office and joining the office of the Directorate of Training and Technical Education where he was clearly entitled to Govt. accommodation. Even if the Registrar, Chit Funds, Delhi, was not an eligible office, action should have been taken at the right time and there can be no justification whatsoever in issuing eviction notices when he was clearly entitled to Government accommodation. Charging of market rent as damages for the entire period cannot be justified. As mentioned above, the attitude of Respondent No.4, the Asstt. Estates Manager, Faridabad, is nothing but vindictive and arbitrary. He seems to have picked up the applicant out of many others who were occupying Government accommodation under similar circumstances. The applicant remained in the office of the Registrar, Chit Funds, Delhi, for over two years and by not taking any action for cancellation of the quarter during this period, the occupation cannot become unauthorised and at a later date warranting market rent or penal rent for that period. It appears that persons working in the office of the Registrar, Chit Funds, are also eligible to Govt. accommodation, but without going into that question at this stage, the following orders are passed:

- (i) The entire period of occupation of quarter No. 514 (Type II) Sector IV NIT, Faridabad, by the applicant will be treated as authorised occupation and the applicant can be charged only the normal licence fee under the rules.

- (ii) Orders charging damages at market rate or penal rate are quashed.
- (iii) No recovery will be made from the applicant over and above the normal rate of licence fee and if any excess amount has been recovered, the same should be refunded to the applicant within a period of three months from today.

The application is allowed. There will be no order as to costs.


(B.C. Mathur)
Vice-Chairman