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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

O.A. No.
T.A. No.

1028/87

198

O. D.

DATE OF DECISION 31.5.89

Shri R.B. Kumar

Petitioner

in person

Advocate for the Petitioner(s)

Versus

Union of India & Ors.

Respondent

Sh P.P. Khurana

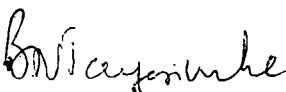
Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. Justice, Amitav Banerji, Chairman

The Hon'ble Mr. B.N. Jayasimha, Vice Chairman

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 ? ☒


(B.N. JAYASIMHA)
VICE CHAIRMAN


(AMITAV BANERJI)
CHAIRMAN

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI.

REGN. NO. O.A. 1028/87

Date of Decision 31.5.89.

Shri R.B. Kumar

....

Applicant

Vs.

Union of India & Ors.

....

Respondents.

CORAM:- Hon'ble Mr. Justice Amitav Banerji, Chairman

Hon'ble Mr. B.N. Jayasimha, Vice Chairman.

For the applicant

....

in person

For the respondents

....

Sh. P.P. Khurana,
Advocate.

(Judgement of the Bench delivered by Hon'ble
Mr. B.N. Jayasimha, Vice Chairman)

The applicant who was working as A.C.I.O-II/G in Intelligence Bureau, Headquarters, New Delhi, has filed this application seeking set aside the order No. 1744/R-138/T-III(B) dated 10.3.86 and also eviction order dated 8.7.87. He also seeks a declaration that he is entitled to retain the Government accommodation in New Delhi till alternate Government accommodation is allotted to him according to the instructions of the Government of India giving certain concessions to Government servants posted to North-Eastern region.

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2. The applicant states that he was transferred to North East Region, Subsidiary Intelligence Bureau, Ministry of Home Affairs, Government of India, Tejpur. He was relieved from the Intelligence Bureau, Headquarter, New Delhi on 31.7.85. The relieving order of the applicant was intimated by the Intelligence Bureau Headquarters, New Delhi, to the

respondent No. 2 vide Memo No. 5/C-II/85(4) dated 24.7.85 with the recommendation for allotment of quarter to the applicant as laid down one type below accommodation in the Ministry's O.M. No. 12035/24/77 dated 15.2.84. The applicant joined duty at Subsidiary Intelligence Bureau, Tejpur on 12.8.85. The application for allotment of one type lower quarters/retention of Govt. accommodation/allotment in favour of the applicant was forwarded by the Subsidiary Intelligence Bureau, under letter No. 23(E)/85/H dated 20.8.85 to the Estates Officer (Respondent No.2) . The wife of the applicant received a Bill amounting to Rs. 3000.50 from respondent No. 2, in the name of the applicant for making the payment within 15 days. The wife of the applicant submitted a representation to the Directorate of Estates in which she pointed out that the applicant is entitled to rent free accommodation and also eligible for the allotment of alternate accommodation as per existing Govt. instructions. The applicant received an eviction notice dated 22.4.87 from respondent No. 3 under Sub-Section (1) of Section (4) of the P.P. Act. The cancellation letter dated 10.3.86 was also mentioned in the said notice dated 22.4.87. The cancellation order of the Government accommodation in question was never served upon the applicant. A representation for retention of the Government accommodation on the ground of education of children was forwarded by Intelligence Bureau, Ministry of Home Affairs, New Delhi vide their letter No. 5/C-II/86(4) dated 29.4.87, to the respondent No. 2 with a request that the applicant be allowed to retain the General Pool Accommodation as per the rules till he is posted at New Delhi. The applicant also made a representation to the Directorate of Estates explaining his case in detail and requested for retention of the accommodation. Shri Gulati, Section Officer, Intelligence Bureau, New Delhi, vide his letter No. 5/C-II/86/(4)/2050 dated 29.6.87 wrote a letter to the Respondent No. 2 with a copy to the respondent No. 3

in which he pointed out that there was no justification for charging damages from the applicant when no alternative accommodation of one type below was offered to the applicant. He further stated that the applicant had since been transferred back to New Delhi and will be joining in New Delhi shortly. The applicant also made a representation on 29.6.87 to Respondent No. 2 request him to allow him to retain the Government accommodation on humanitarian grounds as his wife has been suffering from mental disease. As these representations have not been disposed of by the respondents and panel rent is being recovered, the applicant has filed this application.

3. Respondents in their counter-affidavit say that officers who own house in Delhi are not entitled for the concession of regularisation of the accommodation/allotment of alternative accommodation according to the provisions contained in O.M. dated 15.2.1984. The individual requests of all house owning officers have to be considered on merit and decision taken. The request of the applicant was duly considered in detail by the department and it was found that he is not entitled to regularisation of the accommodation and his request was accordingly rejected. The applicant himself stated in his representation that he owns a house and the same was being occupied by his parents. There is no bar on the part of the applicant's family to share the accommodation with his parents particularly when he is away to Tejpur. Respondents, therefore, say that the applicant is not entitled to the relief asked for.

4. We have heard the applicant in person and Shri P.P. Khurana, learned counsel for the respondents. ~~The~~ ^{the} ~~applicant stated that his counsel for the respondents.~~ ^{the} The applicant stated that his counsel Sh. D.P. Avinashi is busy in Patiala House Courts and therefore he is unable to attend the Tribunal today. We do not consider it fit to adjourn

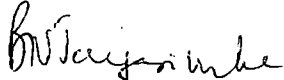
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the case considering the subject matter of the case before us and the orders we are going to pass. The applicant himself has explained his case. As the applicant has since been posted back to Delhi the question of eviction from the quarter does not arise. The only question that remains for consideration is whether he is liable to pay penal rent/damages for the period during which he retained the Government accommodation when he was posted in the North East Region. Our attention has been drawn to the office Memo dated 19.4.85 in which it is stated that matter relating to extending the concession of retention of accommodation/allotment of alternative accommodation in the case of house owning officers has been examined in consultation with Finance Division and it has been decided that individual cases should be considered on merits and decision taken. In this case, admittedly the department (Intelligence Bureau) had taken up the matter of allowing the applicant to retain accommodation with the Directorate of Estates. The applicant was hopeful that his case would be considered having regard to the recommendation made by the Intelligence Bureau. The applicant also pleaded domestic difficulties while seeking retention of accommodation. It was also pointed out before us that originally a type II quarter has been allotted to the applicant and subsequently all these type II quarters were upgraded. The applicant had also submitted a representation for allotment of one type below quarters. The applicant further stated that he is willing to pay rent at the normal rate and is ready to deposit the same in Directorate of Estates. No material has been placed before us as to whether the recommendation made by the Intelligence Bureau, were considered by the Directorate of Estates and the representation made by the applicant was duly considered.

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5. We, therefore, deem it proper to direct the Director of Estates Respondent No. 2 to consider all aspects of the case and pass an appropriate order in regard to penal rent/damages. The applicant will be offered an opportunity of making a further representation to the Director of Estates. The applicant will make his representation, if any, within a period of one month from the date of receipt of this order. The Director of Estates shall dispose of the representation of the applicant within one month from the date of receipt of the same. The rent at normal rate for the period which the applicant undertakes to pay will be accepted by Respondent No. 2 and we direct that no recovery towards penal rent shall be made from the applicant till the representation is disposed of by the Respondents.

6. Application stands disposed of in the above terms. There will be no orders as to costs.


(B.N. JAYSIMHA)
VICE CHAIRMAN


(AMITAV BANERJI)
CHAIRMAN

31.5.89