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CENTRAL ADMINISTRATIVE TRIBUNAL PRINCIPAL BENCH
NEW DELHI.

R.A.No.170 of 1989 in
O.A.No.1762 of 1988. Date of order:15.7.93.

A.B.MathurPetitioner.

Versus

Union of India & othersRespondents.

For the petitioner: Shri K.C.Mittal, Counsel.

CORAM:

H on'ble Mr.Justice V.S.Malimath,Chairman.

Hon'ble Mr.S.R.Adige,Member(A)

ORDER

(By Hon'ble Mr.Justice V.S.Malimath,Chairman)

This petition is for review of the order made on 20.9.89 in O.A.No.1762 of 1988. It is enough for the purpose of this case to advert to paragraphs (i) and (ii) of the operative portion of paragraph 22. The petitioner appears to have not occupied the quarter attached to the post of Superintending Engineer HPT, Khampur for the period from 20.9.85 to 29.1.88. Even though he had not occupied the premises attached to the post held by him, he was directed to pay the licence fee in respect of the said premises. The petitioner challenged the said direction. The Tribunal in direction No.(i) recorded a finding to the effect that the petitioner in the O.A. is liable to pay the licence fee and that he cannot claim exemption on the ground that he had not occupied the quarter for the reason that the quarter was attached to the post to which he was appointed. Hence the action of the authority in calling upon the petitioner in the O.A. to pay the licence fee, even though he did not occupy the official quarter, is unfair. After doing so, the Tribunal had issued a further direction No.(ii) in which it is stated that for the very same period

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for which the petitioner in the O.A. is directed to pay the licence fee ~~that~~ he is entitled to receive H.R.A. This Shri Mittal, learned counsel for the petitioner contends, is really contradictory to the 1st direction and that the two cannot really be reconciled. There is force in this contention. The first direction has been issued on the ground that the quarter was attached to the post of Superintending Engineer HPT, Khampur and that he is liable to pay the licence fee for the said quarter even though in fact he did not occupy the said quarter and, therefore, did not have the benefit of the said quarter. In other words, the first direction has been issued by deeming that he must be regarded as having occupied the quarter meant for the Superintending Engineer. If that is the basis of the first direction, the petitioner in the O.A. would not be entitled to receive H.R.A. for the obvious reason that he has been provided with the official quarter ^{which} ~~as~~ he was not entitled to refuse to accept the same. As he was provided with the official quarter, he would not be entitled to H.R.A. Hence, we accept the contention of the learned counsel for the petitioner that the order of the Tribunal suffers from an error apparent on the face of record in so far as direction No. (ii) of paragraph 22 is concerned and the same is hereby set aside and the claim of the petitioner in the O.A. for H.R.A is rejected. No costs.


(S.R. ADIGE)
MEMBER (A)


(V.S. MALIMATH)
CHAIRMAN.