

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI.

OA.No.2614/90

Dated this the 24th of April, 1995.

Shri N.V. Krishnan, Hon. Vice Chairman(A)  
Dr. A. Vedavalli, Hon. Member(J)

Shri Y.P. Saxena,  
S/o Late Shri G.S. Saxena,  
R/o Qtr. No.104, Sector-I,  
R.K. Puram, New Delhi.

...Applicant

Office Address:-  
Retd. as Superintendent,  
Ministry of Planning,  
Department of Statistics,  
Dte. of National Sample Survey Orgn.  
West Block 8, Wingh No.VI,  
R.K. Puram, New Delhi.

Advocate: Shri D.P.Avinashi (but not present).

versus

1. Union of India through  
The Secretary,  
Ministry of Urban Development,  
Nirman Bhawan, New Delhi.
2. The Director,  
Department of Estates,  
Nirman Bhawan, New Delhi.

...Respondents

By Advocate: Shri Madhav Panicker.

O R D E R (Oral)

The grievance of the applicant is in respect of Annexure-A notice dated 19.7.90, by which he has been directed to pay an amount of Rs.22,238/- by way of normal as well as penal rent.

2. The facts of the case are that the applicant retired on 29.2.88. He was allotted a quarter No.104, Sector-I, R.K. Puram, New Delhi. He could retain that quarter for four months after retirement, subject to certain conditions. This is permitted by Rules. This came to an end on 30.6.88 when the allotment was cancelled.

3. Subsequently, eviction proceedings were initiated when the applicant approached this Tribunal in OA.887/90 which was decided on 29.5.90. A copy of

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the order has been filed by the respondents. The eviction proceedings were initiated on 29.2.90. The OA itself was disposed of without going into the merit of the rival contentions because the applicant wanted to continue in that quarter only upto 30.11.90 because of certain domestic circumstances. In the circumstances, the OA was disposed of directing the respondents to accommodate the applicant in that quarter for three months ie. upto 31.8.90, subject to his giving an undertaking that he will vacate the said premises on or before 31.8.90. He should also pay licence fee and damages in accordance with the relevant rules.

4. It is thereafter, that the notice of recovery dated 19.7.90 was issued, which has been challenged in the present OA. The applicant has prayed for a direction to quash the eviction order dated 19.7.90 and to direct the respondents to charge licence fee at the original rates.

5. The respondents have not filed any reply and the right to file reply has been forfeited. As neither the applicant nor his counsel is present, we have perused the records of the OA. On our direction, the learned counsel for the respondents has produced his records. It is stated that the amount due from the applicant till he vacated the quarter on 6.11.90 works out to Rs.26,654/-, as per the particulars given below:-

Arrears upto 30.6.88

Rs. 190/-

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Penal rent from 1.7.88 to 30.6.90 @ Rs.960/-	Rs.23040/-
Rent from 1.7.90 to 6.11.90 @ Rs.960/-	Rs. 4192/-
Total	Rs.27430/-
Less paid(-)	Rs. 776/-
	Rs.26654/-
Net Due is Rs.26654/-	

6. The learned counsel for the respondents submitted that in view of the earlier orders of the Tribunal, the applicant is bound to pay licence fee and damage in accordance with the relevant rules.

7. We notice that the applicant was liable to be evicted on 30.6.88 i.e. after expiry of four months period from the date of his retirement. None prevented the respondents from evicting the applicant immediately thereafter. If he had been evicted in time, he would not have been made liable to pay such a huge amount of penal rent. We wanted the learned counsel to argue the point as to whether the respondents were not also partly responsible for the cumulation of such rent which is now found due for recovery from the applicant. On perusal of the records, the learned counsel admitted that action for eviction was not taken before 28.2.90, as mentioned in the decision of the earlier OA. He had no reasons to offer as to why such action was not taken earlier which would have prevented the cumulation of such penal rent except to state that perhaps, representations were made by the applicant.

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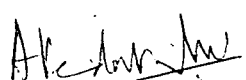
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8. We are not satisfied with this explanation. Considerable amount of hardship is caused by the recovery of high amount of penal rent. Probably, the hardship of evicting the applicant from the quarter would have been less than being required to pay such a high amount. That however, would not absolve the applicant from continuing in the quarter illegally.


9. We, therefore, direct that the penal rent payable by the applicant from 1.7.88 upto 28.2.90 i.e. upto the date when the respondents initiated eviction proceedings should be split and shared by the respondents also along with the applicant on an equal basis. In other words, the applicant is liable to pay only 50% of the rent for this period, calculated at the rate of Rs.960/- p.m. Subsequent to this date, the respondents are entitled to recover the penal rent at the rate of Rs.960/- per month until the quarter was vacated on 6.11.90.

10. In the circumstances, while we do not find any merit in the OA, we dispose it of with a direction to the respondents to recompute the amounts to be recovered from the applicant in accordance with our above decision.

11. The OA is disposed of accordingly. No costs.

  
(Dr. A. Vedavalli)  
Member(J)

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(N.V. Krishnan)  
Vice Chairman(A)