

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH  
NEW DELHI  
\*\*\*

OA 2735/90.

Date of decision 5.5.93

Shri M.S. Saxena ... Applicant

v/s

Union of India & ... Respondents

(11)

CORAM:

The Hon'ble Shri B.S. Hegde, Member (Judicial)

For the Applicant ... Shri R.L. Sethi, counsel.

For the Respondents ... Shri P.P. Khurana, counsel.

(1) Whether Reporters of local papers may be allowed to see the Judgement ?

(2) To be referred to the Reporter or not ?

JUDGEMENT

Delivered by Hon'ble Shri B.S. Hegde, Member (J) 7

The applicant retired from Government service with effect from 31.7.1988 and his allotment of Government accommodation No. B-15/292, Lodi Colony, New Delhi was cancelled with effect from 30.11.1988 after allowing concessional period of four months. He was further allowed to retain quarter on medical grounds upto 31.3.1989 as admissible under the rules.

2. Initially, the applicant himself had filed O.A.No.775/90 along with his wife. This O.A. closely

linked with that of O.A. 775/90. Incidentally, (P)  
it may be mentioned that O.A. No. 775/90 was  
disposed of by this Tribunal on 6.7.1992 and  
having considering the records on merit, the  
application was disposed of stating that it  
becomes infructuous because the applicant in  
that O.A. had prayed for relief that he should  
not be dispossessed till 30.9.1990. Since that  
period was over and the wife of the applicant was  
not in Government service, the allotment of quarter  
in her name did not arise.

3. The stand of the respondents is that respondent No. 2 is not entitled for regularisation or ad hoc allotment of the quarter in question as she is not working in any office eligible for allotment of accommodation. In this case eviction order was passed by the Estate Officer on 7.2.1990 and the same was challenged by the applicant under the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 before the District Judge who disposed of the same by granting time upto 30.4.1990. The applicant has already availed

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himself of the remedy available in the law

and has no case to move this Hon'ble Tribunal,

thereby the eviction order has become final and  
valid. 13

4. It is true that continuance of the applicant  
in this premises deprives the other Government  
servant who is waiting for his turn since long. The  
main contention of the applicant is that he has  
obtained the stay from this Hon'ble Tribunal on  
2.5.1990, thereby he should be charged normal rent  
during his continuous stay in the premises. The  
stay is vacated.

5. It may kindly be recalled that while granting  
stay the specific condition was only for dispossession  
of the premises subject to his payment of licence fee  
in accordance with the rules. Therefore, it is not  
open to the applicant to take advantage of the stay  
order in making <sup>payment</sup> <sub>rent</sub> of the premises as per rules.

He further submits, that he has been paying rent  
from time to time in accordance with S.R. 317(b)(22).

In fact, he has vacated the quarter only on 6.7.1992.

The respondents have sent letters to the applicant for  
recovery of the arrears of rent for his over-stay in

the premises. Since the applicant has been paying rent from time to time whether it is in accordance with the rules or otherwise, the same shall have to be adjusted. The applicant also submits that he has paid rent upto 31.5.1992 as per S.R. 45 which may be verified.

6. In the facts and circumstances of the case and with the consent of both the parties, I pass the following directions /orders:-

(i) Allow the applicant to make a detailed representation regarding payment already effected together with the proof of payment and on receipt of the same, the respondents may consider such representation and pass a speaking order.

(ii) The applicant may make a representation within a period of one month and on receipt of the same, the respondents shall dispose of the representation within a period of two months thereafter.

The O.A. is disposed of accordingly with no order as to costs.

*B.S. Hegde* 5/5/93  
(B.S. Hegde)  
Member (J)