

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

O.A. No. 597/90
T.A. No.

198

DATE OF DECISION 26/7/1990

Sh. K.M. Nagar Applicant (s)

Sh. S.P. Sharma Advocate for the Applicant (s)

Versus

Lt. Governor, Delhi & Others Respondent (s)

Sh. M.M. Sudan Advocate for the Respondent (s)

CORAM :

The Hon'ble Mr. P.K.KARTHA, VICE CHAIRMAN (J)

The Hon'ble Mr. P.SRINIVASAN, MEMBER (A)

1. Whether Reporters of local papers may be allowed to see the Judgement ? *Yes*
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the Judgement ? *No*
4. To be circulated to all Benches of the Tribunal ?

ORAL JUDGEMENT

(DELIVERED BY HON'BLE MR.P.SRINIVASAN, MEMBER (A))

The applicant is presently working as Craft Instructor in the Industrial Training Institute (ITI), New Delhi. The facts relevant to this application may be briefly stated. As a result of litigation initiated by the applicant and ~~people~~ *persons* similarly situated, an order was passed by this Tribunal directing that the applicants be granted selection grade. We understand that the matter got delayed for some reason or the other and finally in May, 1989 this Tribunal passed an order that arrears on account of promotion to selection grade should be paid to the applicant and others. However, unfortunately for the applicant, the Principal of the ITI ^{by office dated 19.12.1989} passed an order directing recovery of market rent from the applicant for the official quarter occupied by him w.e.f. 1.8.1981 till the date of that order, on the ground that the applicant had sub let the same. The amount of market rent was to be recovered from the arrears payable to the applicant

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on account of his appointment to selection grade. As such he was not paid the arrears due to him on account of his promotion to selection grade. The office order dated ^{19.12.1989} ~~19.2.90~~ ordering recovery of market rent from the applicant w.e.f. 1.8.81 was challenged by the applicant in an application filed before this Tribunal. The said application was registered as O.A. 257/89. The said OA was disposed of on 14.2.90 by a Single Member Bench.

2. At para '7' of his order, the learned Single Member who decided the matter wrote that "the fact of sub-letting of government accommodation allotted to the applicant at least from January, 1988 cannot be disputed." However, he went on to say that "the authority competent to assess the amount to be recovered vests with the Director of Estates." Since the order of recovery was passed by the Principal, ITI who was held to be not the competent authority to do so, the said order was quashed. While doing so, this Tribunal granted liberty to the competent authority to initiate action under CCS (Conduct) Rules, 1964, and the CCS (CCA) Rules, 1965 if so advised. The Director of Estates or any other authority competent to do so was also free to initiate appropriate action against the applicant in accordance with the provisions of the Allotment of Government Residences (General Pool in Delhi) Rules, 1963 as amended from time to time. The result was that the order passed by the Principal, ITI was quashed. The respondents could, therefore, not

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recover any amount from the applicant due to him towards market rent for the flat. The aforesaid order disposing of the O.A. 257/89 was passed on 14.2.1990. The arrears due to the applicant on account of his promotion to selection grade were eventually paid to the applicant in full on 23.4.1990.

3. In the application as originally filed on 21.3.1990, the applicant's prayer is for a direction to the respondents to make payment of arrears on account of his promotion to selection grade immediately. The actual payment as indicated above was made on 23.4.1990, i.e., after the application was filed. Learned counsel for the applicant submits that arrears of selection grade pay were paid to him late. The applicant's OA challenging the order of recovery of market rent from him was disposed of by this Tribunal on 14.2.90 and the respondents should have effected payment of arrears to the applicant immediately. However, they delayed the payment up to 23.4.1990. Sh.S.P.Sharma, learned counsel for the applicant, therefore, submits that the respondents should be ordered to pay interest to the applicant for such delayed payment. Sh.Sharma also submitted that even when making final payment of the arrears of selection grade pay, the respondents have made deduction at source on account of income tax totalling to Rs.7094/-. Sh.Sharma submitted that this deduction should not have been made till end of the financial year. He complained that the respondents were harassing his client.


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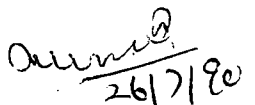
4. Sh.M.M.Sudan, learned counsel for the respondents, opposing the contentions of Sh.Sharma, submitted that the delay in effecting payment of arrears of selection grade pay to the applicant was not an arbitrary action. The Anti-Corruption Department of the Delhi Administration conducted an enquiry and came to the conclusion that the applicant had sub let the quarter and on the basis of their report the Principal, ITI passed an order to charge market rent from the applicant from 1981. Even this Tribunal, while setting aside the order, had not exonerated the applicant from the charge of subletting the quarter. That order of the Principal was quashed only on a technical ground, viz., that the ordering authority was not competent to do so. The authority competent could still take action against the applicant both under the Conduct Rules and under the Allotment of Government Residences (General Pool in New Delhi) Rules. This is a case where, according to Sh.Sudan, the applicant had not come to Court with clean hands and as such he should not be awarded any interest for delayed payment of arrears. After the judgement dated 14.2.1990 was delivered by this Tribunal, setting aside the recovery of arrears of market rent, the arrears on his promotion to Selection Grade were paid to the applicant within two months which cannot be considered to be unreasonable. So far as deduction ^{by} ~~of~~ ^{at} source of income tax was concerned, the respondents were required by law to deduct Income Tax Law as and when the payment was effected. Sh.Sudan submitted that the applicant had made a request that the arrears be spread over the years to which they relate for the purpose of calculating the deduction on account of Income Tax and that had been done.

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5. We have considered the matter carefully. As we have already indicated, the main prayer of the applicant is for a direction to the respondents to pay his dues on account of his promotion to selection grade. That payment has already been effected and the grievance as stated in the application has been redressed. We have bestowed thought on the question whether any interest should be paid to the applicant. After considering all the facts and circumstances of the case we feel that this is not a fit case either in law or in equity to award interest.

In view of the above the application is rejected at the admission stage itself leaving the parties to bear their own costs.


(P. SRINIVASAN)
MEMBER (A)


(P. K. KARTHA)
VICE CHAIRMAN (J)