

In the Central Administrative Tribunal

Principal Bench: New Delhi

OA NO.2034/91

Date of decision: 24.12.1992.

Shri Kanshi Ram

...Petitioner

Versus

Union of India through the
Director of Estates,
New Delhi & Another

...Respondents

Coram:-

The Hon'ble Mr. Justice Ram Pal Singh, Vice-Chairman(J)
The Hon'ble Mr. I.K. Rasgotra, Member (A)

For the petitioner None

For the respondents Shri P.P. Khurana, Counsel.

(Judgement of the Bench delivered by Hon'ble
Mr. I.K. Rasgotra, Member (A))

Aggrieved by the letter of Demand No.320/TA/91-93-Damages dated 7.8.1991 in respect of premises bearing NO.Sector-I/391, R.K. Puram, New Delhi, letter of demand No.5977(1)/89-Damages dated 3.1.1989 in respect of quarter NO.S-1/1126 and Sector-1/391 R.K. Puram, New Delhi claiming rent at damage rate per month the petitioner has filed this Original Application under Section 19 of the Administrative Tribunals Act, 1985. The facts of the case briefly are that the petitioner who is working as a Daftry in the Directorate of Estates was allotted the quarter No.S-1/1126, R.K. Puram. He applied for change and was allotted quarter No.S-1/391, R.K. Puram which he occupied on 3.6.1983. He, however, did not vacate quarter No.S-1/1126 R.K. Puram on or before 5.6.1983 in accordance with the Rules. Accordingly, the allotment of S-1/1126,

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R.K. Puram, was cancelled vide respondents' letter dated 8.6.1987. He was given a show cause notice and proceeded against Public Premises (Eviction of Unauthorised Occupants) Act, 1958. Thereafter, he vacated the said quarter on 24.7.1987. The petitioner was thus in occupation of both the quarters for about 4 years. It is on this account that he was asked to pay rental at the damage rate for quarter No.S-1/1126 R.K. Puram, New Delhi w.e.f. 24.7.1987. According to the respondents the dues on this account worked out to Rs.6,015/- against which the respondents have already effected full recovery. Since he was in occupation of both the quarters the allotment for both the houses was cancelled by the respondents as a punitive measure, as he was acting in violation of the allotment rules. It is in this background that the respondents have also recovered rent from him for quarter No.S-1/391, R.K. Puram, New Delhi which is presently in his possession at Rs.432/- per month at damage rate. This recovery, however, was stopped consequent to his filing of O.A. when an ad interim order was passed by the Tribunal on 21.10.1991, directing the respondents "that the recovery of damages @ Rs.852/- per month from the salary of the applicant shall remain suspended for a period of four weeks." It is not disputed that the petitioner continued to be in possession of both the houses till he vacated the house No.S-1/1126, R.K. Puram, New Delhi on 24.7.1987. The date of vacation also is not in dispute. The case of the petitioner is that after the change was allowed to him and quarter No.S-1/391, R.K. Puram was allotted to him and occupied by him on 3.6.1983 along with his family. Although his

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family members had shifted to the new accommodation he could not vacate the previous accommodation as the other family members did not allow him to use the new residence on account of his suffering from active Tuberculosis.

2. There is no dispute about the facts of the case. The only grievance that survives is that the allotment has been cancelled for both the quarters by the respondents vide order dated 31.7.1987 and in consequence he is being charged rent at damage rate for both the quarters. We have considered the matter carefully. We do not find any justification in the petitioner retaining both the quarters on account of his illness. Once a change was sanctioned to him and he occupied the new quarter on 3.6.1983 he had no reason to continue to hold on to the previous quarter on the pretext of family problems. The quarter is allotted to him by virtue of his being a Government servant; family is dependent on him and not vice versa. The respondents are, therefore, right in charging the rent at damage rate for the quarter No.S-1/1126, R.K. Puram, New Delhi from 3.6.1983 - the date on which he occupied the new quarter till he vacated the same on 24.7.1987. There is, however, no case for the respondents to recover the rent at damage rate for the quarter now under his occupation from 24.7.1987 onwards. There is no doubt that he deserves to be taken up for having retaining both the quarters but the respondents should make use of the proper rules for the misconduct committed by the petitioner. In the circumstances, we are of the opinion that the rent recovered at damage rate for the first quarter from 3.6.1983 to 24.7.87 which is said to have been fully recovered cannot be found fault with. But there appears to be no justification for cancelling

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the allotment of quarter No.S-1/391, R.K. Puram, New Delhi, the new residence of the petitioner w.e.f. 3.6.1983. The petitioner shall be liable to pay the licence fee at the normal rate for the said quarter. The respondents are accordingly ordered and directed to make necessary adjustment in accordance with the observations made above. The order dated 31.7.1987 is set aside to the extent it purports to cancel the allotment of accommodation No.S1/391, R.K. Puram, New Delhi, w.e.f. 3.6.1983 presently under the occupation of the petitioner. The Original Application is accordingly disposed of. No costs.

I.K. Rasgotra
(I.K. RASGOTRA)
MEMBER(A) 24/12/92

Ram Pal Singh
(RAM PAL SINGH)
VICE-CHAIRMAN
24.12.92.