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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

CP 348/2005
OA 174/2004

New Delhi, this the 25th day of May 2006

HON'BLE MR. V.K. MAJOTRA, VICE CHAIRMAN (A)
HON'BLE MR. MUKESH KUMAR GUPTA, MEMBER (J)

Shri Avdhesh Kumar Sharma
502, Judicial Officers Complex,
Karkardooma, Delhi – 110 032.

... Petitioner

(By Advocate Shri Joginder Sukhija for Sh. Shailendra Babbar)

VERSUS

1. Govt. of National Capital Territory of Delhi
Through its Secretary, Sh. S. Raghunathan
Delhi Secretariat, I.P. Estate, New Delhi.
2. Ms. P.M. Singh
The Secretary, Public Works Department,
Govt. of N.C.T. of Delhi,
PWD & Housing (Allotment-I Branch)
5th Level, B-Wing, Delhi Sachivalaya, I.P. Estate,
New Delhi.
3. Central Public Works Department
Through its Director General of Works (DSW)
Sh. B. Majumdar
Nirman Bhawan, New Delhi.

... Respondents / Contemnners

(By Advocate Ms. Rachna Srivastava & Shri S.N. Sharma)

ORDER

By Hon'ble Mr. Mukesh Kumar Gupta:-

Alleging willful disobedience and violation of directions issued by this Tribunal vide order dated 10.11.2004 in OA No.174/2004, present Contempt Petition was preferred. Directions issued vide said order, reads as follows:-

"9. Under these circumstances and having regard to the facts of the case as submitted by both the parties, I am inclined to allow this OA with a direction to the respondents to take appropriate steps keeping in view the above observations. Their impugned letter dated 20.10.2003 (Annexure-1) is quashed and set aside. The respondents are directed to issue 'No Due Certificate' to the applicant within a period of two months from the date of receipt of a copy of this order. As regards refund of the amount of HRA with-

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held by them from May, 2003 to November, 2003 and also the amount charged by them towards Licence Fee for the said period the respondents are directed to consider the same with reference to the relevant rules on the subject and shall be apprising the applicant of the out-come of such consideration through a reasoned and speaking order. With this, the OA stands disposed of with no order as to costs."

2. During pendency of present Contempt Petition, respondent no.3 pursuant to notice issued in said proceedings, filed an affidavit clarifying that they have issued memorandum dated 15.3.2005 stating that the applicant was not allotted accommodation from general pool and, therefore, he was impliedly eligible to retain Delhi Government accommodation on normal terms. An affidavit was also filed by Shri Rakesh Mohan, Principal Secretary, PWD, Government of NCT, Delhi stating that Ms. P.M. Singh, who has been arrayed as respondent no.2 in present proceedings, has since been transferred & posted out and he has joined in her place. Vide para-3 it was stated that in view of aforesaid directions dated 10.11.2004, calculation of the licence fee on normal rate has been done in respect of accommodation occupied by applicant for the period from 17.6.1982 to 22.10.2003. According to calculations so based on revision of licence fee from time to time an amount of Rs.2422/- is assessed as due on account of arrears of licence fee till date of its vacation. A letter dated 18.1.2006 was issued requiring applicant to deposit aforesaid amount and obtain No Dues Certificate in accordance with extant rules.

3. Shri Joginder Sukhija, learned counsel for applicant vehemently contended that since he had already paid licence fee due w.e.f. 17.6.1982 till 22.10.2003, he is not required to deposit an amount of Rs.2422/- as directed vide communication dated 18.1.2006. With reference to Annexure-4 of OA, which is a statement of licence fee deducted, it was contended that due amount of licence fee has already been recovered and respondents' action in not issuing "No Dues Certificate" tantamounts to willful violation of directions issued by this Tribunal.

4. Ms. Rachna Srivastva, learned counsel for respondent no.2, on the other hand, contended that respondent nos.1-2 have passed further order dated 03.5.2006, copy of which was produced before us to suggest that applicant is required to pay difference in licence fee due and paid, which comes to Rs.2422/- which amount has not been deposited despite necessary direction issued to him. It was further stated that respondents have already passed reasoned and speaking order on more than one occasion including order dated 03.5.2006. Furthermore "No Dues Certificate" would be issued on depositing the required amount. Shri S.N. Sharma, learned counsel for respondent no.3 contended that respondent no.3 has nothing to do with the matter and all retiral dues have already been cleared except HRA.

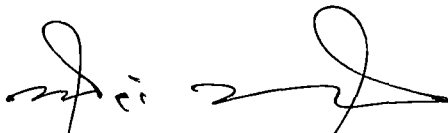
5. We heard learned counsel for parties and perused pleadings carefully.

6. It is no doubt true that respondents have passed speaking orders dated 18.1.2006 as well as 03.5.2006. As far as refund of HRA amount, withheld from May, 2003 to November, 2003 is concerned, since applicant vacated Government accommodation in question on 22.10.2003, he is rightly held not to be entitled for any HRA, as stated vide order dated 03.5.2006. The only direction which remains to be complied with by respondents is issuance of "No Dues Certificate", as directed vide para-9 of directions noticed hereinabove. This is certainly linked with condition of depositing Rs.2422/- on account of difference in licence fee due and paid. Shri Joginder Sukhija, learned counsel vehemently contended that a sum of Rs.120/- per month, which is included in month-wise statement of licence fee produced by respondents from May, 2003 to October, 2003 has already been paid by applicant, but yet the same was included in said statement, which has compounded the contempt of this Tribunal. It is no doubt true that said amount from May 2003 to October 2003 has already been recovered from applicant, as noticed from certificate issued by EA to SE (P&A)-II, PWD, GNCT, New Delhi dated 14.2.2005, which indicated the bill number and

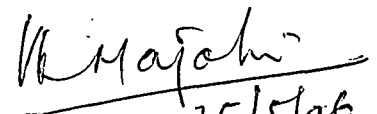
date vide which such recoveries were made on account of licence fee for the aforesaid period. Even if the said amount paid from May to October, 2003 @ Rs.120/- per month, is excluded having already been paid, even then applicant is required to pay some amount which has not been paid by him. In these circumstances it cannot be held that respondents have willfully & deliberately violated directions issued by this Tribunal in not issuing No Dues Certificate without any justification as projected.

7. In view of the above, we are of the considered view that respondents have substantially complied with directions issued by this Tribunal. In case applicant is aggrieved, he should make self-contained representation to concerned authority and remaining aggrieved, he would have liberty to take appropriate action in accordance with law.

8. Accordingly, present Contempt Petition is disposed of and notices to respondents are discharged.


(Mukesh Kumar Gupta)
Member (J)

/gkk/


25/5/06
(V.K. Majotra)
Vice-Chairman (A)