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CENTRAL ADMINISTRATIVE TRIBUNAL PRINCIPAL BENCH

O.A.No. 1997/92

New Delhi: this the 27 November, 1997.

HON'BLE MR. S. R. ADIGE, VICE CHAIRMAN(A).

HON'BLE DR. A. VEDAVALLI, MEMBER(J).

1. The Council of Scientific &
Industrial Research,
Rafi Marg,
New Delhi.

2. Central Road Research Institute
(a constituent Unit of CSIR),
Mathura Road,
New Delhi

..... Applicants.

(By Shri V. K. Shali, Advocate)

Versus

K.N. Bahuguna,
C-14, CRRI., Flats,

Maharani Bagh ,
New Delhi

..... Respondent

(Respondent in person)

JUDGMENT

BY HON'BLE MR. S. R. ADIGE, VICE CHAIRMAN(A)

Applicants (CSIR) seek a direction to respondent to vacate Flat No. C-14 CRRI Flats, Maharani Bagh, declare retention of the same beyond 1.3.90 unauthorised, and direct respondent to pay penal license fee @ Rs.2000/- p.m. upto the date of its vacation, with costs.

2. Admittedly applicants have secured vacant possession of the flat on 10.11.93, and what survives therefore is the claim for payment of penal license fee from 1.3.90 to 10.11.93.

3. Respondent was formerly an employee of

applicants, and it is not denied by him that upon taking voluntarily retirement w.e.f. 1.11.89, he could retain the said premises under Rule 11 (2) (ii) of the CSIR Rules for allotment of residential accommodation to their staff (Annexure-8) only for 4 months beyond that date and was therefore required to vacate the same on or before 28.2.90. Instead, applicants secured vacant possession only on 10.11.93.

4. Respondent has challenged the maintainability of this OA before this Tribunal, but in the judgment dated 23.7.92 in OA No. 2415/89 CSIR Vs. R.B.Lal (Copy on record) which itself has relied upon earlier judgments, it has been conclusively held that the cause of action in respect of the reliefs prayed for falls within the definition of service matters, and the application falls within the jurisdiction of the CAT. Nothing has been shown to us to lead us to conclude that the said judgment dated 23.7.92 has been stayed, modified or set aside and hence is deemed to have become final. Hence respondents' challenge to the maintainability of the OA is rejected.

5. As the validity of the aforementioned allotment Rules have nowhere been challenged by respondent, and because as per these allotment rules whose knowledge he cannot deny, he was allotted the premises in question; he was required under Rule 11(2)(ii) of those Rules to vacate the

premises within 4 months of his retirement, that is on or before 28.2.90 As admittedly the said premises which is a Type 'C' quarter located in Delhi ('A' Class City), he is required to pay penal license fee @ Rs.2000/- p.m. from 1.3.90 to 10.11.93 vide Rule 11(2) (xi)(b) of those Rules, which applicants seek from him.

6. Respondent asserted during hearing that applicants had not released his retiral dues including gratuity and pension. In order dated 11.5.94 in C.P.No.391/93 arising out of the judgment dated 23.7.92 in OA No.2415/89, (copy on record), the Tribunal had permitted applicants to adjust the penal license fee against the gratuity and pensionary amount retained by them. Nothing has been shown to us to suggest that the said order dated 11.5.94 has not become final.

7. Under the circumstance this OA succeeds and is allowed to this extent that respondent is held to be liable to pay applicants' penal license fee for unauthorised retention of the premises in question @ Rs.2000/- p.m. w.e.f. 1.3.90 to 10.11.93. Applicants are permitted to adjust the aforesaid dues against the gratuity and pensionary amount admissible to respondent and release the balance to him within 1 month from the date of receipt of a copy of this judgment. If any dues from respondent still remain recoverable thereafter, it will be open to applicants to recover the same in accordance with law.

8. This OA is disposed of in terms of
the contents of para 7 above. No costs.

A. Vedavalli
(DR. A. VEDAVALLI)
MEMBER (J)

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(S. R. ADIGE)
VICE CHAIRMAN (A)

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