CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

(16)

OA No.2337/1992

New Delhi, this 23rd day of December, 1996

Hon'ble Shri S.P. Biswas, Member(A)

Shri Jai Prakash
National Sample Survey Organisation
Ministry of Planning
R.K. Puram, New Delhi .. Applicant

(By Advocate Shri B. Krishan)

versus

Union of India, through

1. Director of Estates
   Nirman Bhavan, New Delhi

2. General Manager
   Delhi Milk Scheme
   West Patel Nagar, New Delhi .. Respondents

(By Advocate Shri N.S. Mehta)

ORDER

The applicant is aggrived by A-7 and A-8 orders dated 3.8.92 and 7.8.92, respectively by which respondents appear to have decided to impose damage rate of rent upon the applicant and also to evict him from quarter No.30/423, DMS Colony, Hari Nagar, New Delhi.

2. The above said quarter was allotted to him on 25.9.90. He was relieved by Respondent No.2 as per Annexure A-3 order dated 12.3.92 when he was ordered to join National Sample Survey Organisation under the Ministry of Planning, New Delhi. On being eligible for allotment of general pool accommodation he applied to the Directorate of Estates on 16.3.92 for allotment of suitable alternative accommodation to which he was entitled to. He got allotment of general pool accommodation on 31.3.96 and he vacated the DMS pool quarter on 24.4.96.

3. Learned counsel for applicant submitted that as per rule applicant should have been offered alternative accommodation on out of turn basis in order to enable him to vacate the DMS quarter. He also submitted that the second respondent is not justified to impose penal rate of licence fee from 1.6.92 to 24.4.96 when he vacated the quartrer of DMS pool.

4. In support of his contentions, the learned counsel for applicant relied upon the decisions of the Tribunal in the case of Ram Kumar Vs. UOI in OA 577/92 dated 1.5.92, Jai Ram Yadav Vs. UOI in OA 1963/91 dated 18.11.91 and also decision of apex court in the case of S.C.Bose Vs. CAG of India & Ors. 1995 Supp(3) SCC 141. The apex court in the above mentioned case has set aside the order regarding of levy of penal rent and damage rate of rent from the appellant in identical circumstances, counsel contended.

5. Counsel for respondents did not deny that applicant was eligible for general pool accommodation and that allotment from Directorate of Estates was offered only as late as March, 1996.

6. The rules pertaining to ad hoc allotment issued by the Directorate of Estates vide letter No.12035/(16)/84-Pol.II dated 14th March, 1985 (copy of which was produced by the learned counsel for applicant and taken on record) stipulate that alternative accommodation is to be provided from general pool when an employee is transferred and asked to vacate the quarter of another pool. The delay in allotment of general pool

accommodation was not on part of applicant. He cannot therefore be faulted for delay in vacation of DMS pool quarter or held responsible for payment of damage rent.

(18)

7. In view of the decision of the apex court as well as the Principal Bench of the Tribunal in the cases aforementioned, the application merits consideration and is accordingly allowed. The applicant, however, has to pay the damage rate of rent in case he has overstayed in DMS pool quarter over and above the permissible number of days allowed after the receipt of fresh allotment from the general pool.

No costs.

(S.P. Biswas)
Member(A)

/gtv/