

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

O.A.2344/92, Date of decision: 9-12-93. 8

Hon'ble Shri C.J. Roy, Member(J)

Mrs. R. Nath
B-7, Ext/96, Safdarjung Enclave
New Delhi

.. Applicant

By Shri P.P. Khurana, Advocate

Versus

Medical Superintendent,
Safdarjung Hospital, New Delhi .. Respondent

By Ms. Pratima Mittal, Advocate

ORDER

By Hon'ble Shri C.J. Roy, Member(J)

The applicant has challenged the order dated 28.4.92 levying damage rent of Rs.24,734/- in respect of the Government quarter No.631, Laxmi Bai Nagar, allotted to her while she was in service. The facts leading to this application are that the applicant retired as Nursing Superintendent of Safdarjung Hospital on 31.3.1990. She claims that she was allowed to retain the impugned quarter on normal licence fee upto 31.7.90, and on double the rate of normal licence fee on medical grounds upto 30.11.90. She handed over possession of the quarter on 3.12.91. In between, she claims, she made representations for retention of the quarter on medical and other grounds but there was no response for the same and on the contrary the respondents cancelled the allotment with effect from 1.12.90. She alleges that no proceedings of any sort whatsoever were initiated against her under PPE Act, 1971. Hence this application, for quashing the impugned order dated 28.4.1992.

2. The respondents have filed their counter denying the averments made in the application. They say that the representations of the applicant dated 1.12.90 and 2.2.91 seeking retention of the said quarter, were

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were replied to by the respondents vide Memorandum dated 14.2.91 (Annexure 2 R-3) asking her to pay the rent of Rs.4020/- from 1.4.90 to 31.1.91 and also to vacate the accommodation immediately, failing which necessary eviction proceedings shall be initiated against her to evict her from the said quarter. They also deny that the applicant has made any representation against the order dated 11.2.92 asking her to deposit Rs.24,419/- on account of damage charges. They further aver that the applicant was allowed to retain the quarter for a maximum period of eight months and she was duly informed on 14.2.91 that no further extension was granted due to acute shortage of Government accommodation. Therefore, it was her moral duty to vacate the quarter immediately but she refused to do so and retained the quarter upto 3.12.91. They contend that action/proceedings under PP Act, 1971 could be initiated for recovery of damage rent, when only the Government servant is not agreeing to pay the same. They, therefore, argue that the applicant is not entitled to the relief prayed for.

3. I have heard Shri P.P.Khurana, learned counsel for the applicant and Ms. Protima Mittal, learned counsel for the respondents and perused the records.

4. Now the short point for consideration is whether or not the applicant is liable to pay the damage rent for the period from 1.12.90 to 3.12.91, which is alleged to be the period of unauthorised occupation of the quarter in question. The contention of the respondents is that the applicant was duly informed as back as 14.2.91 to vacate the quarter, after allowing her to retain it for 8 months from the

date of her retirement, as there was acute shortage of Government accommodation, failing which eviction proceedings would be initiated against her.

5. The short point now for consideration is whether the applicant is entitled for the relief prayed by her.

6. The contention of the applicant is that damage rent is to be assessed by the Estate Officer after serving her with show cause notice and seeking her explanation. She further contends that the damage rent has been assessed without authority of law, which is alleged as illegal and not liable to be enforced against her. On the other hand, it is contended by the respondent's counsel that the respondent is competent enough to make the recovery from the applicant on behalf of the Government and if she is not agreeable to pay it, the damage rent to be recovered from her will have to be pleaded before the Estate Officer in terms of Rule 8 of the PPE Act.

7. No evidence is placed before me to prove that any such show-cause notice was served upon the applicant and giving her an opportunity of being heard. Also no notice of termination of tenancy was issued to her. In the circumstances, I feel that the applicant has made out a case for giving a proper direction. Accordingly, the impugned order dated 28.4.1992 asking the applicant to pay damage rent in respect of the Government accommodation referred to above is quashed and set aside. The respondents are directed to issue a proper show cause notice to the applicant and also afford an opportunity of being heard to her, calculate the amount for the period of unauthorised occupation by her and recover the same as per extant rules.

8. The OA is thus disposed off. No costs.

Ansley
(C.J. Roy) 9/2/93
Member (J)