

16

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL**  
**NEW DELHI**

O.A. No. 2812/92  
T.A. No.

199

10-9-97

DATE OF DECISION

Sh. Bhagwati Prasad

Petitioner

Sh. B. Krishna

Advocate for the Petitioner(s)

Versus

Respondent

UDI &amp; Ors

Shri S. M. Arif

Advocate for the Respondent(s)

**CORAM**

The Hon'ble Smt. Lakshmi Swaminatha, Member (J)

The Hon'ble

1. To be referred to the Reporter or not?

y/e

2. Whether it needs to be circulated to other Benches of the Tribunal?

No

*Lakshmi Swaminatha*  
(Smt. Lakshmi Swaminathan)  
Member (J)

Central Administrative Tribunal  
Principal Bench

O.A. 2812/92

(7)

New Delhi this the 10th day of September, 1997

**Hon'ble Smt. Lakshmi Swaminathan, Member(J).**

Shri Bhagwati Prasad,  
S/o Shri Kali Ram,  
working as Peon in the  
News Services Division, All India Radio,  
Akashwani Bhavan,  
New Delhi. ... Applicant.

By Advocate Shri B. Krishan.

Versus

1. Union of India, through the  
Director of Estates,  
Directorate of Estates,  
Nirman Bhavan,  
New Delhi.
2. The General Manager,  
Delhi Milk Scheme,  
Ministry of Agriculture,  
West Patel Nagar,  
New Delhi. ... Respondents.

(By Advocate Shri S.M.Arif)

**ORDER(ORAL)**

**Hon'ble Smt. Lakshmi Swaminathan, Member(J).**

The applicant is aggrieved by the letter dated 28.7.1992 issued by Respondent 2 for recovery of the outstanding licence fee/damage charges amounting to Rs.3138/-.

2. The brief facts of the case are that the applicant was allotted Qr. No. 15/211, DMS Colony, Hari Nagar, New Delhi when he was working with the DMS in 1987. Thereafter, the applicant was declared surplus on 29.3.1990 and redeployed with All India Radio on 31.3.1992. The applicant submits that he has been in service with the Central Government since 24.2.1968. Shri B. Krishan, learned counsel for the applicant, submits that after this

8/

13

O.A. was filed on 29.10.1992, the applicant has since vacated the quarter allotted to him by the DMS and he has shifted to occupy the quarter allotted to him under the General Pool. Therefore, the only issue for consideration at this stage is regarding the payment of penal rent for the intervening period i.e. from the time he was appointed with All India Radio and his allotment of General Pool accommodation. It has also been clarified that as per rules, he was entitled to retain the DMS quarter for a period of two months w.e.f. 1.4.1992 to 31.5.1992. The applicant relies on the judgement of the Supreme Court in S.C. Bose Vs. Comptroller and Auditor General of India & Ors. (1995 Supp (3) SCC 141) which has been followed by the Tribunal in Ganesh Chand Vs. Union of India & Anr. (OA 2341/92) decided on 19.5.1997 and Mahesh Nand Vs. UOI and Anr. (OA 2340/92) decided on 23.12.1996.

3. I have seen the reply filed by the respondents and heard Shri S.M. Arif, learned counsel. The Supreme Court in S.C. Bose's case (supra) taking into account the circumstances of the case which are similar to the facts in the present case, has held as follows:

....Having regard to the aforesaid circumstances, we are of the view that since the officers were entitled to allotment of accommodation from the General Pool and they had to stay in accommodation from the Departmental Pool on account of non-allotment of the accommodation from the General Pool, the

25

(9)

department was not justified in recovering penal rent and damages for occupying the accommodation from the Departmental Pool."

4. In the present case, it is noted that the applicant has admittedly shifted from the DMS pool to the General Pool accommodation in 1994. The question, therefore, is one of recoveries of the penal rent/ damages during the period from 1.6.1992 till the date of occupation of the General Pool accommodation. The respondents have not seriously disputed the fact that the applicant who was in the Central Government service from 1968 is not entitled to General Pool accommodation. Taking into account the facts and circumstances of the case and the decision of the Supreme Court in S. C. Bose's case (supra) which has been followed by the Tribunal in the cases mentioned hereinabove, this application is allowed to the extent that the respondents shall not recover penal rent for the intervening period but will only recover the normal licence fee for occupation of the quarter in DMS pool. However, it is made clear that if there is any period when the applicant had remained in occupation of both the quarters, he shall pay the penal rent as provided under the rules.

O.A. disposed of, as above. No order as to costs.

*Lakshmi Swaminathan*  
(Smt. Lakshmi Swaminathan)  
Member(J)

'SRD'