

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

O.A. No. 1336/93
T.A. No.

199



DATE OF DECISION 8.12.1997

K.P. Sarma & Anr.

Petitioner

V. K. Rao

Advocate for the Petitioner(s)

Versus
UOI & Ors.

Respondent

S. Mohd. Arif

Advocate for the Respondent(s)

CORAM

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

The Hon'ble Mr.

1. Whether Reporters of local papers may be allowed to see the Judgement ?
2. To be referred to the Reporter or not ? Yes. ✓
3. Whether their Lordships wish to see the fair copy of the Judgement ?
4. Whether it needs to be circulated to other Benches of the Tribunal ?

JUDGEMENT


 (S.P. Biswas)
 Member(A)
 10.12.97

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.1336/93

New Delhi, this 8th day of December, 1997

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

(21)

1. Shri K.P. Sarma
2. Ms. Subhadra Kowta, s/o Shri K.P. Sarma
both r/o N-210, Sector 8, R.K. Puram
New Delhi .. Applicants
(By Advocate Shri V.K. Rao)

versus

Union of India, through
1. Director of Estates
Nirman Bhavan, New Delhi
2. Asstt. Director of Estates
Nirman Bhavan, New Delhi .. Respondents
(By Advocate Shri S. Mohd.Arif)

ORDER(oral)

The short question for determination is whether a Central Government employee, otherwise eligible for an ad-hoc allotment of general pool accommodation under a scheme following retirement of his/her parent, can legally claim waiver of penal licence fee in case the said ad-hoc allotment is not made within the period of permissible retention of the quarter allotted to the parent.

2. Rules that would govern such cases are available in Compendium of allotment of Govt. residences (General Pool in Delhi) Rules, 1963, modified from time to time.

3. The undisputed facts are that the applicant No.1 Shri K.P. Sarma retired from services of an eligible department on 31.3.92. He was living in a Type IV quarter in Sector 8 of R.K. Puram. The applicant No.,2, Ms. Subhadra Kowta, daughter of applicant No.1 was entitled for type III quarter. However, when she applied for allotment of ad-hoc accommodation, she could only be given allotment of a unit one type below her

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entitlement i.e. type II as per extant rules. Till 31.12.96, as per the aforesaid Rules an employee after having retired from Government service could retain the quarter for a period of four months initially on payment of normal licence fee under FR 45A and for a period of another four months i.e. upto 30.11.92 on payment of double the normal licence fee under FR 45B. These provisions have since been modified once on 1.1.97 and again on 24.10.97. However, Rules do not provide for payment of normal licence fee after the expiry of permissible spells of retention unless otherwise permitted by the respondents on valid considerations.

4. An amount of Rs.19,753/- has been shown due against the applicants for retention of type IV quarter beyond the permissible period from 1.12.92 to 14.6.93. Applicants would say that they would have vacated the above quarter if the respondents had offered them allotment of an appropriate house within the period of eight months. That was not done and hence it does not lie in the mouth of the respondents to charge payment of market rent for the period of alleged overstay in the said type IV quarter beyond 30.11.92.

5. I find from the records that the applicants herein were intimated(A-1) in March, 1993 about the decision of the respondents to sanction an ad hoc allotment of type B quarter in the same/adjoining locality. That communication did stipulate specifically the rental liability the applicants would have to bear. The applicants apparently accepted the conditionalities. Since the applicants were really interested to avoid payment penal rent, it was open to them to come out with

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a specific request to the Estates Office to offer them house anywhere in Delhi, i.e. outside central locality. We do not find any request from the applicants in that direction. We also wanted to know from the applicant's counsel the rule position in respect of the rental liability in such circumstances. He fairly conceded that there is no provision in the rules in a case like the present one to retain the general pool accommodation beyond the permissible period on payment of normal licence fee. Nor the rules permit waiver of market rate of licence fee even in cases where alternative accommodation is not offered to eligible employees in time. In fact, applicants were pre-warned on this by A-I. Under these circumstances, there is no merit in the application and it has to be dismissed. I order so accordingly.

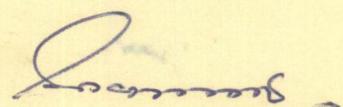
5. However, under the rules, respondents on their own could have offered a type II flat outside the central area. That was not done. As per current allotment rules, allotments of ad hoc nature are normally made in non-central areas. There is no mention by respondents that first available vacancy (FAV) was not available in other than adjoining areas. In other words, respondents could very well offer a type II unit in non-central areas (say Mehrauli Badarpur Road) and could have avoided waiting for a vacancy (on FAV basis) in adjoining R.K. Puram areas. As it was an ad-hoc allotment, applicants could not have openly refused the same, if so offered.

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5. Under the circumstances aforesaid, we give liberty to the applicants to make a representation to the Director of Estates, setting out the circumstances in which they could not move out of the Type IV quarter and the basis on which they are not in a position to pay the penal rent. If the applicants do so within a period of one month from the date of receipt of a certified copy of this order, R-1 shall, in his turn, take up the matter with the appropriate authorities for waiver of the market rate of licence fee for retention of the type IV quarter beyond 1.12.92 to 15.6.93 and decide the matter in terms of law. This shall be done within a period of six months from the date of receipt of the representation. The applicants shall be informed accordingly. Respondents shall do well to adhere to the time limits given.

6. The application is disposed of as above. No costs.


(S.P. Biswas)
Member (A)

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