

Central Administrative Tribunal
Principal Bench, New Delhi

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D.A. No. 2662/93

New Delhi, this the 13th Day of January, 1995.

HON'BLE SHRI J.P.SHARMA, MEMBER (J)
HON'BLE SHRI B.K. SINGH, MEMBER(A)

Chawan Singh s/o
Sh. Balram Singh,
R/o H-416, Sarojini Nagar,
New Delhi - 110 023,
working as Assistant Engineer(Civil)-(III)
C.P.W.D., Unfiltered Water Supply Division,
4-6, Pandit Pant Marg, New Delhi.

(By Shri R.V.Sinha, Advocate)

Applicant. /

Versus

Union of India, through

1. The Secretary,
Ministry of Urban Development,
Nirman Bhawan,
New Delhi - 110 001.
2. The Director General of Works,
C.P.W.D., Nirman Bhawan,
New Delhi.
3. Directorate of Estates,
Ministry of Urban Development,
Nirman Bhawan,
New Delhi.
4. The Estate Officer,
Directorate of Estates,
Ministry of Urban Development,
Nirman Bhawan,
New Delhi.

Respondents.

(By Shri Madhav Panikar, Advocate).

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JUDGEMENT (ORAL)

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The applicant is Assistant Engineer(Civil) in C.P.W.D. and at the time of filing this application was serving in III-C.P.W.D., Unfiltered Water Supply Division. He had a grievance regarding the fixation of unreasonable, exorbitant penal rent of the premises H-416, Sarojini Nagar, New Delhi which is allotted to the applicant. The said premises was cancelled by the respondent Directorate of Estates by the order dated 8th October, 1990. This cancellation was on account of the fact that the applicant was transferred to the office of Executive Engineer, Central Division-II, Faridabad. It transpired that in the aforesaid order dated 8/10/1990 the subsequent date of transfer of the applicant to Faridabad is shown while earlier he was transferred to Rajkot and that order of transfer to Rajkot was substituted with order of transfer to Executive Engineer, Central Division-II, Faridabad.

2. The applicant has since been posted to Delhi Zone from 1.4.1992 and the applicant continued to occupy the same quarter. However, the respondents by the letter dated 24th November, 1993 Annexure-III informed the applicant that the request of regularisation of quarter

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No. H-416, Sarojini Nagar, New Delhi is under active consideration provided to clear all dues in respect of the quarter before a decision is taken in the matter and a bill of Rs. 42,952/- has also been served on the applicant with a direction that if the same is not deposited within one month, order for eviction will be passed. Total amount of Rs. 42,952/- has been arrived at by fixing the rent/penal rent from 21.3.89 to 20.5.89 @ Rs. 85/- per month i.e. 170/-; from 21.5.89 to 20.11.89 @ Rs. 170/- per month i.e. Rs.1020/-; from 21.11.1989 to 31.3.1991 @ Rs. 980/- per month i.e. Rs. 16007/-; from 1.4.1991 to 31.3.1992 @ Rs. 1960/- per month i.e. Rs. 23,520/-; from 1.4.1992 to 30.6.1993 @ Rs. 110/- per month i.e. Rs. 1650/-; and from 1.7.1993 to 30.11.1993 @ Rs.117/- per month i.e. Rs. 585/- totalling in all Rs. 42,952/-.

3. The applicant has filed the present application in December, 1993 and by the order dated 23rd December, 1993 the eviction order was stayed.

4. The relief prayed for by the applicant in this application for quashing the order dated 8.10.90, 1.12.92 and 24.11.1993 with a direction to the respondents to regularise the government accommodation No. H-416, Sarojini Nagar, New Delhi in the name of the applicant from the date of cancellation i.e. 4.2.1989.

5. The respondents contested this application and file a reply stating that the applicant was posted at Faridabad w.e.f. 21.3.1989 which is ineligible office for allotment of quarter from general pool accommodation

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of general pool accommodation at Delhi. However, it is admitted that Faridabad Central Division-II is under administrative control of the Chief Engineer(Food), New Delhi. The fact remains that the applicant was posted at Faridabad which is an ineligible office for allotment of general pool accommodation at Delhi. In view of the fact and S.R. 317-B the applicant could have retained the premises only for a period of two months after his transfer and thereafter he becomes liable for paying damage rate of rent for retention of the accommodation in an unauthorised manner. No rejoinder has been filed to the aforesaid reply.

6. We have heard the learned counsel for the parties at length and perused the record of the case. It is on record that the Executive Engineer, Faridabad Central Division-II has made the headquarter of the applicant at S.T.S., B.S.F. Campus Tigri New Delhi. The respondents had drawn a policy for eligibility zones in Delhi and New Delhi for the purpose of allotment of general pool accommodation and a copy of the same is Annexure-A-VII annexued with the D.A. In zone No. 62 the eligible offices are shown as Pushpa Bhawan, Madangir, Khanpur, Deoli, Tigri, and Dakshinpuri. In view to get the position clarified we desired the learned counsel for the respondents

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to get clarification from the department whether if a person is posted with headquarter at Tigri in that position whether such an employee will be entitled for allotment of a general pool accommodation or not. Shri Madhav Panikar instructed by the Department representative Shri Tek Chand, U.D.C. gave a statement that after scrutiny of the record and clarification from the department, it has now transpired that the headquarter at Tigri of B.S.F. S.T.F. come within the zone No. 62 and those who are posted at that headquarter are eligible for allotment from the general pool accommodation.

7. In view of the above facts and circumstances, rival contentions raised by the parties, there is no need for further probe. We are satisfied by the evidence on record that though the applicant was posted after cancellation of the order of transfer to Rajkot, Faridabad C.P.W.D. Division-II but his headquarter was shifted from Faridabad to Tigri with immediate effect by the order dated 12.6.1990. A copy of the order has been given during the course of the hearing and that has been placed on record.

8. In view of the above facts and circumstances, the application is allowed and disposed of in the following manner: -

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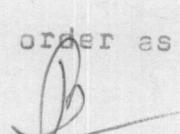
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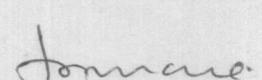
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(i) The cancellation order of the premises No. H416, Sarojini Nagar, New Delhi in favour of the applicant be quashed and the allotment in favour of the applicant subsists till such time the same is permissible according to the relevant allotment rules ~~involving~~.

(ii) The respondents are free to ascertain the licence fee realisable from an unauthorised allottee and shall realise the same from the applicant if not already realised from his salary. In the case any excess amount has been realised as a penal rent beyond the licence fee which was current at the relevant point of time, the same shall be re-imbursed to the applicant within a period of three months from the receipt of this order. The order as such for realisation of the amount of Rs. 42,952/- is, therefore, modified in the above manner, making it clear that only the arrears, if any, of the licence fee shall be realised and the order with respect to the realisation of the remaining amount shall be stand quashed. If the amount has already been paid by the applicant in the monthly salary then there shall be no question of further realisation of the licence fee for that period subject to re-imbursement to the applicant the excess amount so realised as penal rent.

The application is disposed of accordingly with no order as to cost.


(B.K.SINGH)
nka MEMBER(A)


(J.P.SHARMA)
MEMBER(J)