

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

DA No. 686/1993

NEW DELHI, this 18th day of January, 1994  
Shri C.J.Roy, Hon'ble Member (J)

(12)

Shri Ami Chand Gaur  
25-C, Sector IV  
Pushp Vihar  
MB Road, New Delhi .. Applicant  
By Shri B. Krishan, Advocate

Versus

Union of India, through

1. Director of Estates,  
Nirman Bhavan  
New Delhi  
2. The Estate Officer  
Dte. of Estates  
Nirman Bhavan  
New Delhi .. Respondents  
By Shri Dog Singh, Advocate

ORDER (Oral)

In this application filed under Section 19 of the Administrative Tribunals Act, 1985, the applicant has claimed the following relief:

- (i) Quashing of cancellation letter dated 27.3.92 in respect of Qr. No.25-C, Sector IV, MB Road and regularising the quarter in the applicant's name with effect from 24.5.86.
- (ii) The applicant may not be made liable to pay penal/damage rent except the normal licence fee for the said quarter.
- (iii) Quashing of the final eviction order under PPE Act, 1971
- (iv) Quashing of OM dated 27.8.87 ad 1.4.91; and
- (v) Directing the respondents to formulate guidelines for regularisation of allotment.

2. The applicant's counsel says he is not now pressing for (iv)&(v) above.

3. Brief facts of the case are that the applicant claims to have joined the Government service on 20.8.59. and that he is now presently working as Youth Coordinator in the Nehru Yuva Kendra from 25.3.86. The applicant was allotted Government quarter No.25-C, Sector IV, MB Road in December, 1984 which he claims is two types below to what he is entitled.

4. The applicant claims that his headquarters is Delhi and is drawing salary at Delhi but he was posted to Bhiwani from 25.3.86 and he was travelling between Delhi and Bhiwani daily from 25.3.86, while he continues to occupy the impugned quarter. It is stated that subsequently he is transferred back to Delhi on 1.4.1992. Annexure A-8 dated 11.5.92 says that the applicant has been transferred from Bhiwani to Nangloi (Delhi) vide order No.01002029 dated 9.4.92 and he will draw his salary as Youth Coordinator from April, 1992.

Meanwhile, the respondents have levied a damage rent of Rs.40/- per sq. meter for the said accommodation in between the period of transfer to Bhiwani and reposting to Delhi, i.e. 24.5.86 and 1.4.1992. The applicant assails the market rent of Rs.40/- per sq. meter demanded from him for the alleged unauthorised occupation during the period of transfer. He therefore claims the relief cited above.

5. The respondents have filed their counter stating that the applicant is entitled to retain the quarter for two months after the transfer on again on concessional rent for another two months on medical grounds. Since he was transferred out of Delhi, he is not eligible for general pool accommodation. They have also stated in para 4.12 of their reply that the damage rent is determined under SR-317-B-22 having regard to the factors listed under Rules of PPE Act, 1971.

6. I have heard the learned counsel for the parties and perused the records.

7. Now the short point for consideration whether the OM dated 27.8.87 fixing the damage rent @ Rs.20/- for Type I to IV and Rs.21/- for Type V and above is applicable in this case. There is also another OM dated 1.4.91 raising the above amount to Rs.40/- and Rs.45/- respectively. Since these two notifications are not questioned by the applicant's counsel, he is not pressing for the relief mentioned at 8(4) and 8(5) of his OA.

7. The applicant is also aggrieved by the letter dated 27.3.92 (Annexure A-4) cancelling the allotment with effect from 24.5.86 retrospectively in spite of the fact that for the entire period of his transfer, the respondents have recovered the normal licence fee from his salary. The cancellation of allotment of the said premises is still stated to be pending consideration as per the averment in the OA in para 4.8 and it is admitted in the corresponding para of the reply. In view of this, and also of his reposting back to Delhi, there is no change either in the status of the applicant or his entitlement of the said accommodation.

8. The applicant has also averred that deduction of licence fee in respect of the said accommodation is also being made from his salary at Delhi and the same is being accepted regularly month by month by the Respondents since then.

9. According to para 2(vi) of the OM dated 27.8.87, the ~~state~~ of damage would be the rate to be charged from the unauthorised occupant and if he is not agreeable to pay it, the damages to be recovered from him will have to be pleaded before the Estates Officer in terms of Rule 8 of the PPE Act, 1971. In this case, it has not been done. However, the applicant is prepared to pay the market rent if it is fixed on the basis of the formula as stated in the Manual for Assessment & Recovery of Licence Fee for Government residential accommodation in Delhi, which prescribes it as area multiplied by Rs.4.63 per sq. meter of the living area for Type B to Type D accommodation, if it is regularised in his name.

10. In the circumstances, I direct the respondents to regularise the accommodation in the name of the applicant from the date he is posted back to Delhi, i.e. from 1.4.92, and also, as a special case, calculate the damage rent as per the formula stated above and recover the amount in

accordance with the Rules. However, the amount should be the difference between the normal licence fee already realised and the amount now to be realised based on the above formula from the applicant. This case shall not be treated as a precedent.

With the above direction, the OA disposed of.  
No costs.

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(C.J. Roy)  
Member (J)  
18.1.1994

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