

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH : ALLAHABAD

ORIGINAL APPLICATION No.1002/1997

MONDAY, THIS THE 6TH DAY OF JANUARY, 2002

HON'BLE MRS. MEERA CHHIBBER .. MEMBER (J)

Yog Raj Chawla,
S/o Sri N.D. Chawla,
R/o 17-A, Ram Nagar,
Roorkee, Haridwar.

... APPLICANT

(By Advocate Shri H.S. Srivastava)

Versus

1. Union of India, through
Secretary,
Ministry of Defence,
Government of India,
New Delhi.

2. Adm. Commandant,
Station Head Quarters,
Dehradun.

3. Controller of Defence Accounts
(Army), Meerut Cantt. ...

RESPONDENTS

(By Advocate Shri A. Mohiley)

ORDER

By this O.A., the applicant has sought the
following reliefs:

- a) to issue a writ of mandamus quashing the penal
rent being recovered from the petitioner from
January, 1996 upto date;
- b) to pass any other order which the Tribunal may
deem fit and proper in the circumstances of the
case and
- c) to award the cost of the application to the
applicant.

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2. It is submitted by the applicant that the applicant was promoted as Section Officer and transferred to LAO (C), Army, Dehradun, from CDA (Army), Meerut Cantt., where he joined on 1.12.1994. At Dehradun, he was allotted Government accommodation on 10.7.1995. and on 4.12.1995, the respondents asked him to vacate the Government accommodation as he was no more posted in Dehradun when the applicant had been transferred to Clement Town. It is submitted by the applicant's counsel that the Local Audit Officer, Clement Town, replied by his letter dated 8.12.1995, stating therein that since the applicant was serving in the same station, viz., Clement Town, Dehradun, there was no necessity to ask him to vacate at Dehradun. However, no heed was paid to the said letter written by LAO (C) and the applicant was once again asked to vacate the accommodation by 10.1.1996, vide its letter dated 1.1.1996 (Annexure-2). The applicant is stated to have given a representation to the Sub-Area Commander, Dehradun, stating the examples of identically situated persons who have been promoted and allowed to continue and retain the accommodation even though they were posted in Clement Town (Annexure-3). Instead of considering the representation of the applicant, the Army Commandant asked the applicant vide his letter dated 8.11.1996, to give an undertaking for how long he wanted to retain the accommodation. It is submitted by the applicant that as



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desired by Admn. Commandant, he gave in writing that he would like to retain the quarter upto 31.3.1997. Thereafter, no decision was communicated to the applicant. The applicant therefore, sent another letter dated 8.5.1997, citing the example of Shri H.S. Rawat as he was also similarly situated as the applicant and he had been allowed to retain the quarter upto 31.3.1997, whereas, no such approval was given to the applicant. This, according to the applicant, shows malafides on the part of the respondents, as they have been adopting discriminatory attitude towards different persons. He has further submitted that his wife was also working in the same department and they could have allotted the house in the name of his wife so that the education of his children ^{did B} ~~was~~ not suffer. But, inspite of the request made by him, the respondents started recovering penal rent of Rs.1,000/- from the salary of the applicant with effect from January, 1996. Thus, finding no other remedy, he had to file the present O.A. as mentioned above.

3. The O.A. is opposed by the respondents who have submitted that the applicant was given number of opportunities to vacate the accommodation, viz., letter dated 4.12.1995, 1.1.1996, 12.1.1996 and 25.1.1996, whereby he was declared unauthorised occupant of the quarter. But, since the applicant did not vacate the quarter, penal rent had to be recovered from his salary. As far as Station Pool Accommodation is concerned, they have submitted that since Dehradun and Clement Town are two separate stations for allotment of Government accommodation for two separate

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centres and allotment of Station Pool Accommodation is controlled by the Administrative Commandant who is also the Estate Officer as per Public Premises (Eviction of Unauthorised Occupants) Act, 1971. The Local Audit Officer had no authority to change the status of two ~~different~~ stations as stipulated by the Head Quarters Central Command vide their letter dated 30.11.1992. They have further explained Dehradun is not listed as accommodation for the civilians as accommodation is built only for Armed Forces personnel, but as an exception of one time measure, the Station Pool accommodation was allotted in favour of the applicant for a period of six months only and in the same letter, it was made clear that no further extension would be granted. They have also stated that the wife of the applicant, even though serving in the same department, had never applied for the said accommodation. They have submitted that since this accommodation was made for regular Army personnel and they were waiting in queue, the applicant could not have been allowed to retain the quarter as that would have denied the right of those persons who were entitled to get the same. They have also submitted that the action of respondents in similar circumstances has been upheld by the Hon'ble High Court in the year 1990 by which the penal rent was recovered from those persons who had not vacated the accommodation. The respondents have


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also stated categorically that Army instruction AI-26/1970 is not applicable in the instant case since House No.32/4, Araghar, Dehradun, was constructed for Army personnel and Civilians are not authorised for Government accommodation made for JCOs/ORs. House No.32/4, Araghar, Dehradun, allotted to Shri Yog Raj Chawla was constructed for regular service personnel and not for Civilians. However, he was allotted the same for a period of six months. They have also relied on Standing Operating Procedure for Station Pool accommodation, wherein, it is clearly mentioned in Para 2 that Station Pool Accommodation will be allotted only for three months duration and it would be extended for another three months only on specific recommendation of medical authorities and on merit of the case approved/sanctioned by Administrative Section of the Army Commandant. In Para 7, it is specifically mentioned that the Station Pool accommodation would be vacated immediately on termination of three months or else the JCOs/OR/Civ will be placed on damage rent/eviction under PP Act 1971. It is also to ensure that the next person on seniority list is not denied of similar facility.

4. The respondents' counsel has submitted that since the applicant failed to vacate the accommodation inspite of repeated reminders, damage rent was rightly claimed from

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the applicant in accordance with law and it was ultimately vacated by the applicant on 15.4.1997.

5. The applicant's counsel, on the other hand, relied on page 29 of the counter affidavit to suggest that vide letter dated 30.11.1992, it shows that Clement Town and Dehradun were one station, as according to him, ~~as~~ Sub-Area Commandant is incharge of Command Division and Area Head quarter whereas the respondents counsel has explained that this letter pertains to the appointment ~~xxx~~ while Clement Town is under the Commander, Dehradun Sub-Area and officiating Commander is Senior Brigade Commander in his station while in Clement Town, it is commanded under Dy. GOC 14 Infantry Division and officiating Station Commander is Commander 14 Artillery Brigade.

6. I have heard both the counsel and perused the pleadings as well.

7. It is seen that the applicant had been allotted the Station Pool accommodation for a period of six months only vide letter dated 29.6.1995 (page 26 of the counter) on temporary basis and it was made clear in the letter itself that no further extension/retention will be granted and if the individual fails to vacate the accommodation by due date, he will be placed on recovery of damage rent of



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LV at the rate of Rs.45/Sq. metre per month and the eviction proceedings will also be initiated. Therefore, even at the time of initial grant of the Station Pool Accommodation, the applicant was ^{informed by} ~~made known~~ that he would not be allowed to retain the said quarters beyond six months and in case he failed to vacate the same by the said date, he would be liable to pay the damage rent at the rate of Rs.45/- per sq. metre per month. Thereafter, by letter dated 4.12.1995, the applicant had been informed that since he had been posted out from Dehradun to Clement Town, he was not authorised to retain the Station Pool Accommodation, therefore, requested to vacate the same immediately, else, he will be declared as unauthorised occupant of the said accommodation and action will be taken against him. Vide letter dated 1.1.1996, the applicant was informed that his application has been considered, but, since he has been posted out from Dehradun station to Clement Town, he was no more eligible for Station Pool accommodation. Therefore, he was once again asked to vacate the same failing which recovery of damage rent will be effected from 1.1.1996. Admittedly, the applicant did not vacate the said quarter inspite of clear terms given to him even at the time of allotment and subsequently reminders as mentioned above. Therefore, vide letter dated 25.1.1996, the respondents' office was asked to charge damage rent at the rate of Rs.45/- per sq. metre per month till vacation of the said accommodation to AAO, BSO, Dehradun. The applicant has not been able to show

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me any rule which shows that he could have retained the Government accommodation allotted to him from Station Peel accommodation even after his transfer from Dehradun to Clement Town. Whereas, the respondents have clearly showed the instructions wherein it is made clear that Station Peel accommodation will be allotted only for three months and can be extended only for another three months. In the said instructions, it is made clear that Station Peel accommodation can be allotted only for six months. As far as instructions No.226 of 1970 is concerned, the respondents have explained that these instructions are not applicable in the present case, as these are for regular accommodation and not for Station Peel accommodation. Since the respondents have made a categorical averment in the supplementary affidavit which has not been rebutted by the applicant, the averments made by the respondents have to be accepted as there is no reason to disbelieve them. The applicant has submitted that in similar circumstances, they had granted the permission to other persons, while denying the same to the applicant. Thus, he is being discriminated against. The law is well settled that if one wrong is committed for one person, the Courts cannot give directions to commit the same mistakes for other persons as well. Moreover, the instructions are clear that



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each case has to be decided on the merits of its facts.

In the instant case, I have ^{seen B} seen already [^] that the applicant was allotted the accommodation for a period of six months only on temporary basis and at that stage, itself, it was made known to him that if he does not vacate the premises after the expiry of the said period, he will be charged penal rent at the rate of Rs.45/- per sq. metre per month. Therefore, in my considered opinion, sufficient opportunity was given to the applicant to comply with the directions given by the respondents and in case, he continued to retain the premises without the permission of the authorities, definitely, he would be liable to pay the damage rent as well.

8. It is submitted by the applicant's counsel that the applicant as well as his wife, both were not given the HRA during the said period. If the applicant has any grievance with regard to non payment of HRA and there is some ruling to this effect, he may make a representation to the authorities which shall be decided by them in accordance with law.

9. Therefore, I do not find any illegality in the orders passed by the respondents. The O.A. is accordingly dismissed with no order as to costs.



MEMBER (J)

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