

RESERVED

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH
ALLAHABAD

DATED: THE 5th DAY OF JANUARY 1999

CORAM : HON'BLE MR. S.L. JAIN, J.M.

ORIGINAL APPLICATION NO. 313 OF 1997

V.B.Sharma aged about 55 years
son of Late Krishna Murari Lal,
Resident of P-24, N.E.S.Colony,
Fort, Allahabad.

....Applicant

C/A Shri H.S.Srivastava, Adv.

Versus

1. Union of India, through Secretary
Ministry of Defence, New Delhi.
2. Station Headquarters,
Allahabad Sub Area, Allahabad.
3. Area Accounts Officer,
1, Ashok Road, (Near All India Radio
Station) Allahabad.
4. Garrison Engineer (East)
Stanley Road, Allahabad.

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Respondents

C/R Shri Amit Sthalekar, Advocate.

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ORDER

BY HON'BLE MR. S.L. JAIN, J.M.-

This is an application under section 19 of the Administrative Tribunal Act 1985 to issue orders/directions to respondent no.2 to cancel the impugned order dated 18.5.96, not to recover damage rent and refund of the amount recovered as such with interest @ 18% per annum along with cost of the suit.

2. The applicant's case, in brief, is that he was transferred to the office of G.E. (East) Allahabad on 16.8.94 and posted as Officiating Assistant G.E. (M.E.S.) under his sub division office of the Assistant G.R.(M.E.S.) Fort, Allahabad in April 1995 where he is still working. He was allowed Government accommodation constructed for M.E.S. Key Personnel, No.P-24, M.E.S. Colony, Fort, Allahabad by G.E. (East) Allahabad from his pool vide letter No.2005-A/1358/E-2BS dated 1.5.95 and started residing wherein with his family. On 18.5.96 Station Headquarters, Allahabad issued impugned letter no.2001/51/23 addressed to the Assistant Accounts Officer, D.S.O. West, Allahabad and copy to G.E. (East), Allahabad stating that the applicant illegally occupied quarter No.P-24 MES Key personnel at Fort as he was not entitled for type-D quarter and not allotted to him, order to raise recovery of damage rent @ 1944/- per month with effect from the date of occupation, and asked the G.E. (East), Allahabad to instruct the individual to vacate the accommodation. The Assistant Accounts Officer, D.S.O. West Allahabad raised the bill of Rs.16,074/- for the period 2.5.95 to 31.1.96 at the same day, deducted Rs.4,437/- from the pay bill of July 1996, Rs.4,000/- from the pay bill of August 1996.

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3. After receipt of the impugned order dated 18.5.96 the respondent no.4 informed the respondent no.2 about the actual position vide letter dated 12.6.96 (Annexure-A-4), 5.7.96 (Annexure-A6), 27.8.96 (Annexure-A8), 25.9.96 (Annexure-A12), 30.11.96 (Annexure-A14) but no action taken.

4. The applicant also apprised the respondent nos.2 and 3 by letter dated 27.6.96 (Annexure-A5), 17.8.96 (Annexure-A16) 11.9.96 (Annexure-A11) and also by the notice (Annexure-A15).

5. The applicant's wife sent a letter dated 10.9.96 Annexure-A9 to the Defence Minister and vide letter dated 18.9.96 Annexure-A18 the same was forwarded to the respondent for needful action. She further requested the Defence Minister vide letter dated 20.11.96 to ^{assist in the matter} ~~the Defence Minister~~.

6. No action is taken so far. Hence the applicant filed the O.A. in the Tribunal on 20.3.97 for the aforesaid reliefs:

7. Even after the delivery of the copy of the petition to the respondents' Standing Counsel on 1.4.97, several opportunities were afforded to the respondents but till the date of hearing no C.A. was filed.

8. Annexure-A2 the impugned order is as under:-

"1. Shri V.B.Sharma, Supdt. Gde-I of AGE Fort has illegally has occupied Qr. no.24 MES Key Pers at Fort This quarter is Type 'D' and he is not entitled nor allotted.

2. Please raise recovery of damage rent of Rs.1944/- p.m. w.e.f. date of occupation..

3. Accord priority and confirm."

9. On perusal of the said order I find that the cause which laid to the respondent to issue the said order

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is that the quarter is Type 'D' for which the applicant is not entitled and secondly it is not allotted.

10. Annexure-A1 order dated 1.5.95 makes it clear that the quarter no.P-24 MES Colony, Fort Area which was vacated by Shri A.K.Majoomdar has been allotted to the applicant.

11. Regarding entitlement of the applicant for quarter 'D' type, the applicant's salary being Rs.2,900/- and is entitled to the said quarter in view of the instructions attached as Annexure-A12.

12. There is no rebuttal to the said facts, Both the grounds on which the impugned order is passed, do not stand.

13. The respondents recovered the amount as stated Rs.4,437/- and Rs.4,000/- which was excessive to 1/3rd of the salary. The recovery should not exceed more than 1/3rd of the salary, hence recovery of the amount to the said extent is also against the instructions.

14. In the result, O.A. deserves to be allowed and is allowed. Order dated 18.5.96 issued by respondent no.2 (Letter no.2001/15/Q3) is quashed and respondents are ordered to refund Rs.8,437/- to the applicant along with interest on the said amount from the date of actual recovery to the date of payment @ 12% per annum and ^{pay} cost of the litigation amounting to Rs.650/- (Rs.500/- as legal practitioner fee and Rs.150/- as legal expenses) within one month from the service of the order.

J.C. Sharma —
MEMBER (J)