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CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH

Original Application No. 442 of 1987

Shri S. Hameed Hasan

.. .. Applicant

Versus

Union of India & Ors.

.. .. Respondents

Hon'ble Mr. A.B. Gorthi, Member(A)

(By Hon. Mr. A.B. Gorthi, Member(A))

The claim of the applicant in this application Under Section 19 of the Administrative Tribunals Act 1985 is for a direction commanding the respondents to refrain from evicting him from the government accommodation allotted to him and to refrain from charging the licence fee at the market rate of Rs.207/- per month w.e.f. 27.5.1986 and for a direction to the respondents to refund the licence fee recovered from him at the market rate.

2. The applicant who is a Technical Assistant in the Silviculture Branch of the Forest Research Institute and Colleges, Dehradun was allotted quarter No.II/17 and G/20(Type II) in the New Forest Estate by the Registrar & Estate Officer, Forest Research Institute and Colleges vide order dated 13.7.1984 and 27.7.1984. The memo allotting the said quarter to the

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applicant states that he will have to vacate the allotted quarter as soon as he ^{ceases} ~~seems~~ to be associated with the work of fire protection equipment in public interest and will not claim for alternative accommodation in lieu thereof. The applicant occupied the said quarters and was residing in the same. However on 17.4.1986 he was directed to vacate the said quarter within 40 days. The applicant represented to the authorities concerned that he continued to be responsible for some equipment that was under his charge for the purpose of Fire protection and that therefore he should be allowed to continue to stay in that accommodation. His representation was rejected on 9.2.1987 vide the impugned order.

3. The respondents in their Counter affidavit while admitting the ^{essential} ~~real~~ facts of the case, have refuted the claim of the applicant on the ground that the allotment of the accommodation was initially made to the applicant so that he would be readily available for duty in connection with the fire protection duties. Since a separate unit was created for the purpose of fire protection, the applicant ceased to perform any duty in connection with the fire protection equipment. Although some fire protection equipment was held by the applicant in his charge, it was meant for research purposes and not for the actual work of fire protection. ^{on} ~~the other hand~~ Directing the applicant to vacate the quarters was therefore valid and the applicant was not justified in ^{keeping} ~~getting~~ the accommodation beyond 27.5.1986. The respondents

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thus contended that they were justified in charging the market rate of rent from the applicant w.e.f. 27.5.1986. They have also initiated action against him under Public Premises (Eviction of Unauthorised Occupants) Act for the vacation of the government accommodation.

4. The short question for our determination in this case is whether the applicant has remained in unauthorised occupation of government accommodation w.e.f. 27.5.1986, which is the date on which he was required to vacate the said quarters. Admittedly the applicant was duly allotted the government accommodation by the respondents so that his services could be readily made use of for the purposes of fire protection of the government estate. Having allowed ^{him to} ~~the~~ stay in the government accommodation for about 2 years it seems unfair on the part of the respondents to order him to vacate the ^{quarters} ~~charges~~ on the ground that he was no longer required to ^{discharge} ~~perform~~ the additional responsibility in connection with the fire protection. There also does not seem to be any dispute with regard to the fact that the applicant still had some fire protection equipment ^{under his charge} as stated in (Annexure A-5) to the application. In case the services of the applicant in connection with the fire protection were no longer required by the respondents, they were fully justified in asking the applicant to vacate the quarters but fairplay and ^{equity} ~~repeated~~ demand

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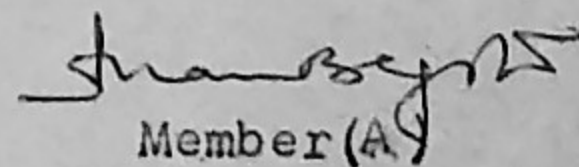
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that he should have been offered alternative accommodation of the same type, notwithstanding the conditions stipulated to the contrary in the original allotment letter. Further the applicant's contention that he is suffering from Tuberculosis and accordingly that he deserves to be allotted accommodation out of turn as has been done in respect of some other employees similarly situated, also deserves serious consideration.

5. In view of what has been stated above, I direct the respondents to treat the applicant as in authorised occupation of the government quarter allotted to him and not to charge from him the market rate of rent w.e.f. 27.5.1986. Accordingly the respondents shall not proceed further in the matter of eviction of the applicant from the said government quarters under Public Premises (Eviction of Unauthorised Occupants) Act. Consequently, the market rate of rent charged from the applicant w.e.f. 27.5.1986 shall be refunded to the applicant within a period of 3 months from the date of communication of this judgment.

6. The application is allowed in the above terms without ^{any} order as to costs.


Member (A)

Dated: 21st February: 1992

(UV)