

CENTRAL ADMINISTRATIVE TRIBUNAL, ALIAHABAD BENCH, ALIAHABAD

O.A. No. 948 of 1992

Man Mohan Applicant.

Versus

Union of India & others Respondents.

Hon'ble Mr. Justice S.K.Dhaon, V.C.

The applicant, an employee of Civilian Defence Establishment, was posted at Agra under the Garrison Engineer of that place. He had been allotted an official accommodation and was living there. In October, 1991, he was transferred from the jurisdiction of Garrison Engineer to the jurisdiction of Commander-Works Engineer at Agra. On 30.11.91, he was served with a notice calling upon him to vacate the official accommodation. On 7.7.92, an order was passed that if he fails to vacate the accommodation, he will be liable to pay the rent at penal rate. A bill at enhanced rate was sent to him and thereafter he came to this tribunal and the tribunal granted an interim order which is in operation even now.

2. In this application, Union of India through Ministry of Defence, Commander Works Engineer, Agra and Garrison Engineer, Agra have been impleaded as respondents 1, 2 and 3 respectively. On 14.7.92, this tribunal directed that show cause notices be issued to these respondents. On 20.7.92 Shri N.B. Singh-learned counsel accepted notices on behalf of aforesaid respondents. However, counter-affidavit had been filed only on behalf of respondent no. 3 Garrison Engineer. It is, thus, clear that inspite of due service, no counter affidavit has been filed by Commander Works Engineer.

3. The applicant has come-up with a clear case that he has not been allotted accommodation by the

Commander Works Engineer which should have ^{been} allotted in the normal course. He is not in a position to vacate the accommodation. There ~~appears~~ ^{is} substance in this plea. Naturally, the applicant cannot be expected to start living under a tree along with his family. The applicant is justified in not vacating the accommodation. The Commander Works Engineer should allot a suitable accommodation to the applicant.

I direct that, if and when Commander Works Engineer allots accommodation to the application and gives possession to him of the same, the applicant shall vacate the accommodation in dispute within ten days from the date of taking possession of the accommodation allotted to him by the Commander Works Engineer. If the accommodation is not allotted and the possession of the same is not given to the applicant, he shall not vacate the accommodation in dispute. Under these circumstances, I direct that the respondents shall realise the normal rent from the applicant of the accommodation in dispute. The question of realising the rent at penal rate will arise when the applicant fails to vacate the accommodation in accordance with the directions given above. With these observations, the application stands disposed of finally. There shall be no order as to costs.

DATED : NOVEMBER 27, 1992
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VICE CHAIRMAN.