

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD.

Allahabad this the 27th day of September 1996.

Original application No. 335 of 1994.

Hon'ble Mr. D.S. Baweja, AM

R.D. Sagar, Retired - Assistant Administrative Officer, B - II Type, Quarter No. 4, Indian Veterinary Research Institute, Izzatnagar, Bareilly. U.P. at present residing at C/o Sri Sarvesh Kumar, Clerk, A.C.J.M. - 6, Judge Court, Bareilly.

..... Applicant.

C/A Sri V.K. Srivastava
Sri A.K. Gupta

Versus

1. Union of India, through its Secretary to Govt. of India and Estate Officer, D/o Agricultural Research and Education, Krishi Bhawan, New Delhi.

2. The Director, I.V.R.I., Bareilly.

3. The Administrative Officer, I.V.R.I., Izzatnagar, Bareilly. U.P.

..... Respondents.

C/R Sri J.N. Tewari
Sri R. Tewari

ORDER

Hon'ble Mr. D.S. Baweja, AM

Through this application, the applicant has prayed for quashing the order dated 25.9.93 whereby he has not been allowed retention of the house on normal rent for the permissible period after retirement. The applicant has also

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prayed for direction to be issued to treat the applicant as authorised occupant of the house and deduct only the normal rent.

2. The applicant while working as Superintendent in the office of Director, I.B.R.I. Izzatnagar, Bareilly retired from service on 31.7.90. The applicant was occupying the house at the time of retirement and made a request for permitting retention of the house for a period of two months in view of his school going children and thereafter he made a requests for further extension. He was allowed vide letter dated 15.9.90 retention of the house for a period of four months on normal rent from 1.8.90 to 3.11.90 and from 1.12.90 to 31.3.91 on payment of twice the standard pooled license fee. Thereafter further extension was not allowed and a show cause notice dated 14.1.92 for vacation of the quarter was issued to the applicant. The applicant replied the show cause notice vide letter dated 14.2.92 explaining his problems as to why he was not able to vacate the house. The applicant also listed some cases in his reply dated 14.2.92 where the retention of the house was permitted. However the respondents did not consider his representation and passed the impugned order dated 25.9.92 for the payment of Rs. 20,657/- without giving reasonable opportunity to hear the applicant. The impugned order has been also passed without cancelling the allotment order and initiating proceedings under Public Premises Eviction Act. The impugned order is therefore arbitrary and no order in the eye of law and deserves to be quashed.

3. The respondents have filed the counter affidavit. It is stated by the respondents that he was allowed the

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retention of the house initially for a period of four months, from 1.8.90 to 30.11.90. Subsequently it was allowed for a further period of four months up to 30.3.91 at twice the standard pool license fee. The applicant thereafter submitted representation for further extension and the same was not allowed vide letter dated 30.1.90. Since the applicant did not vacate the quarter, the matter referred to D.A.R.E. for initiating the eviction proceedings against him. A show cause notice was issued to the applicant for presenting his case before Under Secretary to Govt. of India and Estate Officer. In response to the show cause notice, the applicant submitted his representation dated ¹⁴28.2.92. The Under Secretary and Estate Officer held that the applicant was liable to pay higher rate of license fee as per rules beyond the permissible period for retention of the house on superannuation from service. In view of this position, the respondents submit that applicant's plea that no reasonable opportunity had been given to the applicant is baseless. Further the impugned order is nothing but a reply to his subsequent representation. His earlier representation had been considered by the Department and reply had been sent vide letter dated 18.1.93, which is referred to in the impugned order. The respondents have also opposed the application submitting that it is barred by limitation as the impugned order dated 25.9.93 is nothing but reiterating the order earlier passed on 18.1.93. The application has been filed in February 1994 after more than one year later and therefore suffers from delay.

4. The applicant has not filed ^{any} rejoinder affidavit in spite of repeated opportunities [^] being given. None was also present on behalf of the applicant on the date for hearing. On several earlier dates also none

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was present on behalf of the applicant and therefore order dated 8.8.96 was passed with the direction^{that} if none appears for the applicant on the next date, the matter will be heard ex-parte and decided based on the pleadings on record. In view of this order, the arguments of the counsel of the respondents were heard. We have given careful thought to the material placed on the record.

5. First we will consider the plea of the respondents that the application is time barred. The applicant has impugned order dated 25.9.93 which is reply to his representation dated 14.9.93. This letter refers to the earlier reply dated 18.1.93 wherein the final decision on his request dated 14.2.92 for recovery of normal fee beyond the permissible period had been given. The limitation period should have been reckoned from 18.1.93. However since the respondents have replied his further representation dated 14.9.93, we are inclined to take a view of limitation period from 25.9.93. Considering this, the application is within the limitation period.

6. From the averments made by the applicant, the substantial pleadings are that the recovery of the penal rent has been done without initiating proceedings under Public Premises Eviction Act and also no show cause notice has been ~~also~~ given prior to passing the impugned order 25.3.93. On consideration of the material placed on the record, we are not inclined to find any merit in the contentions of the applicant. The applicant has been allowed retention of the house for a period of 8 months as permissible under rules after retirement considering the schooling of his children

and medical problems. Retention of the house beyond 8 months was not allowed by the competent authority. Permitting retention of the house after the permissible period is at the discretion of the competent authority and the applicant cannot claim this a matter of right. Show cause notice was issued to the applicant under the Public Premises Eviction Act and the applicant had also submitted his reply to the same. After consideration of his reply, the Under Secretary to the Government of India and the Estate Officer did not find any merit in his pleadings and held to recover higher rate of license fee for the period beyond the permissible period of 8 months as per the rules. In view of these facts, the pleas put forward by the applicant are without any foundation. The argument of the applicant that the allotment of the house was not cancelled is also not tenable. When the extension for further retention of the house beyond eight months was not allowed, it implied that the allotment ^{stood withdrawn} ~~ceased~~ thereafter.

6. In view of the above considerations, I do not find any merit in the reliefs prayed for and accordingly the application is dismissed. No order as to costs.

Arvind.

S. R. Singh's
Member - A