

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH : JODHPUR

Date of order : 09.08.2000

O.A. No. 372/97

S.N. Sharma son of Shri Hari Narain Sharma aged about 46 years, resident of H. No. 1300, Chankya Marg, Subhash Chowk, Jaipur, at present last employed on the post of Asstt. Engineer (Civil), in the office of SE (Civil) Telecom, Lal Kothi, Jaipur.

... Applicant.

v e r s u s

1. The Union of India through the Secretary to Government of India, Ministry of Communication, Department of Telecom, Sanchar Bhawan, New Delhi.
2. Telecom District Manager, Bikaner.
3. The Secretary to the Government of India, Ministry of Urban Development, Directorate of Estate, New Delhi.
4. The Superintending Engineer (Civil), Telecom, Lal Kothi, Jaipur.

... Respondents.

Mr. J.K. Kaushik, Counsel for the applicant.

Mr. Vinit Mathur, Counsel for the respondents.

CORAM:

Hon'ble Mr. A.K. Misra, Judicial Member.

Hon'ble Mr. Gopal Singh, Administrative Member.

: O R D E R :

(Per Hon'ble Mr. A.K. Misra)

The applicant had filed this O.A. with the prayer that the impugned OMs Annexure A/2 so far as they provide for charging flat rate of three times of licence fees be struck down as unconstitutional and the impugned order dated 26.6.96 (Annexure A/1) passed by the responder No. 2 be quashed, and the applicant be allowed all consequential benefits, including the refund of amount already recovered by the respondents in pursuance of the aforesaid order along with interest at the market rate.

2. Notice of the OA was given to the respondents, who have filed their reply in which it is stated that the application of the applicant is premature. The representation of the applicant dated 4.10.96 (Annexure A/9) is pending with the departmental authorities. Without waiting for the outcome of the representation, the applicant has filed this OA, therefore, the O.A. deserves to be dismissed. It is also alleged by the respondents that the recovery of rent equal to 3 times of normal rent of the quarter, which the applicant had occupied under allotment orders issued by the competent authority, is perfectly according to rules and the applicant is not entitled to any relief. Therefore, even on merits, the applicant is not entitled to any relief.

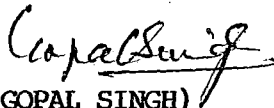
3. We have heard the learned counsel for the parties and have gone through the case file.

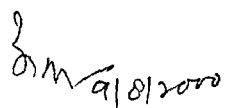
4. There is no controversy between the parties relating to the facts of the case. However, the ^{applicant} has challenged the constitutionality of the rules under which 3 times of normal rent has been recovered from the applicant. This is also not in dispute that applicant's representation dated 4.10.96 is still pending with the departmental authorities. The applicant had filed the O.A. after waiting for almost one year for a decision on the representation, therefore, the O.A. cannot be said to be premature. However, we feel that the departmental authorities should look into the grievance of the applicant keeping in view the various grounds raised by the applicant in his representation. This is also essential because the higher category quarter was allotted to the applicant as the quarter was lying vacant and there was no claimant for the same. At the same time, there was no quarter of category III available for allotment to the applicant as per his entitlement. Therefore, the O.A. could be disposed of by giving a direction to the respondents for disposing of the representation of the applicant as mentioned above, considering the facts of the case.

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5. It is, therefore, ordered that the respondents No. 2 should dispose of the representation of the applicant dated 4.10.96 (Annexure A/9) ^{by a speaking order} within a period of 4 months from the date of communication of this order. However, if the applicant feels aggrieved of the order of the respondent No.2, he will be at liberty to file a fresh O.A. for redressal of his grievance.

6. The O.A. is disposed of accordingly. Parties are left to bear their own costs.


(GOPAL SINGH)
Adm. Member


(A.K. MISRA)
Judl. Member

CVR.

R/copy
14/8

R/copy
on 18/6
R/copy

Part II and IM destroyed
in my presence on 8.2.07
under the supervision of
section officer () as per
order dated 10/11/06
Nash 9/1/07
Section officer (Records)