

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH, JODHPUR.

O.A. No. : 231/1998

Date of Order : 27.9.1999

Shri J.D. Kawatra S/o Late Shri Trilok Chand Kawatra aged about 56 years, R/o Quarter No. 1384, Shaitan Singh Enclave Army Area, Jodhpur. Presently serving on the post of A.E. in the office of G.E. (F), Jodhpur.

..Applicant.

Versus

1. Union of India, through the Secretary, Ministry of Defence, New Delhi.
2. Station Commander, Station Headquarters, Jodhpur.
3. Commander Works Engineer (Army), Multane Line, Jodhpur.
4. U.A.B.S.O. (Army), Jodhpur.

..Respondents.

Mr. S.K. Malik, counsel for the applicant.

Mr. Vinit Mathur, counsel for the respondents.

COURT :

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

Hon'ble Mr. Gopal Singh, Administrative Member.

PER HON'BLE MR. GOPAL SINGH :

Applicant, J.D. Kawatra, has filed this application under section 19 of the Administrative Tribunals Act, 1985, praying for setting aside the impugned order dated 18.5.1998 (Annexure A/1), dated 20.6.1998 (Annexure A/2) and dated Nil (Annexure A/3). The applicant has also prayed for a direction to the respondents to allow the applicant to continue to stay in quarter No. 1384 in S.S. Enclave and also to refund the market rent already recovered from the salary of the applicant with interest at the rate of 18 percent per annum. By way of interim relief, the applicant has prayed for staying the operation of impugned order dated 18.5.1998 (Annexure A/1) and for Costs.

a direction to the respondents not to recover market rent from the salary of the applicant till final decision in this OA.

2. By ~~our~~ interim order dated 21.9.1998, the operation of action of recovery of market rent in pursuance of Annexure A/1, A/2 and A/3 was stayed.

3. Applicant's case is that he was posted from Jabalpur to Jodhpur and he joined at Jodhpur on 21.4.1997. The applicant was allotted quarter No. 1384 in S.S. Enclave vide respondents letter dated 16.6.1997. Before allotment of the said quarter, an undertaking was taken from the applicant to the following effect :-

"Quarter No. 1384 in S.S. Enclave is a temporary allotment upto 31.12.97 and I will shift to the alternate accommodation when the same will be allotted to me"

The respondents vide their letter dated 17.4.1998 allotted quarter No. 113/1 at Banar and simultaneously vide their letter dated 18.5.1998, allotment of quarter No. 1384 S.S. Enclave was cancelled and the applicant was declared as unauthorised occupant of Quarter No. 1384 S.S. Enclave with effect from 27.4.98. In this letter dated 18.5.98 addressed to UABSO (A), Jodhpur and endorsed to GE (P) No. II, Banar, it was also directed that the applicant be instructed to vacate quarter No. 1384 immediately otherwise damage rate of rent will be charged with effect from 27.4.98. The applicant represented against the allotment of quarter No. 113/1 at Banar on 30.5.98 (30.4.98 ?). This representation was rejected and applicant was declared unauthorised occupant of quarter No. 1384 S.S. Enclave vide letter dated 18.5.1998 (Annexure A/1). The applicant again moved a representation on 25.7.98 in this regard. Without considering this repres-

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tation of the applicant, the respondents issued market rent bill for unauthorised occupation of quarter No. 1384 S.S. Enclave. The contention of the applicant is that since he was occupying only one quarter, he should not be charged damage rent / market rent.

4. Notices were issued to the respondents and they have filed their reply.

5. We have heard the learned counsel for the parties and perused the record of the case.

6. During the arguments, learned counsel for the applicant submitted that the applicant is ready to vacate quarter No. 1384 S.S. Enclave within 10 days and move to another quarter that may be allotted to him. It has also been prayed on behalf of the applicant that the question of charging market rent / damage rent may be reconsidered by the respondents. Since the applicant is now ready to vacate the quarter in question, we do not consider it necessary to deliberate upon the issue any further.

7. In the circumstances, of the case, we dispose ~~of~~ this application with a direction to the applicant that he should vacate quarter No. 1384 S.S. Enclave within 10 days from the date of receipt of a copy of this order and the respondents would allot him a quarter within the aforesaid period to enable the applicant to shift to the new accommodation. We also direct the applicant to submit a fresh representation in regard to market rent / damage rent which has been levied against him within 15 days of receipt of a copy of this order and simultaneously the respondents are directed to consider the above representation and dispose of

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the same within three months from the date of receipt of the same by a speaking order and not recover the market rent/damage rent till the above mentioned representation is decided.

8. The parties are left to bear their own costs.

Gopal Singh

(GOPAL SINGH)
MEMBER (A)

Om
27/9/99

(A.K. MISRA)
MEMBER (J)