

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH

O.A. No.1457 of 1997

Present: Hon'ble Mr. D. Purkayastha, Judicial Member

Sri Pradip Kumar Brahma, son of
Late Harendra Chandra Brahma, working
as Asstt.Engineer under the control of
the Executive Engineer, Guwahati Central
Division, CPWD, Bamuni Maidan, Guwahati

..... Applicant

VS

1. Union of India, service through
The Secretary, Ministry of Urban Affairs
and Employment, Nirman Bhavan,
New Delhi-110 011

2. Director General (Works),
Central P.W.D., Nirman Bhavan,
New Delhi-110 011

3. Chief Engineer (E.Z.) I, C.P.W.D.,
Nizam Palace, 234/4, A.J.C. Bose Road,
Calcutta-700 020

4. Estate Manager, 5, Esplanade East,
Calcutta-700 069

5. The Executive Engineer, Guwahati
Central Division, C.P.W.D., Bamuni
Maidan, Guwahati-781 021

.... Respondents

For the Applicant : Mr. P. Chatterjee, counsel
Mr. K. C. Saha, counsel

For the Respondents: Mr. B. Mukherjee, counsel

Heard on 30.10.1998 : : Date of order: 30.10.1998

O R D E R

One Shri Pradip Kumar Brahma while he was holding the post of Assistant Engineer under the respondents, was allotted a Government quarter bearing Flat No.6, Ty-III, Block-G, Lake Area, Calcutta-29. But he was subsequently promoted to the post of Executive Engineer and transferred on deputation to the office of Navodaya Vidyalaya Samiti with effect from 8.5.97 by a letter dated 12.6.97. He joined in the said post at Shillong on 8.5.97. But he continued to enjoy the occupation of the quarter at Calcutta till date. According to the applicant, since he was transferred from Calcutta to Shillong which is in the North

Eastern Region, he is entitled to retain the quarter at Calcutta under the normal rules and notification issued by the Government of India in this regard. Thereby he did not vacate the quarter. The applicant while on deputation became ill and made a representation to the parent Department for his repatriation. Accordingly the applicant was repatriated again to his parent Department with effect from 30.9.97 by an order dated 26.9.97 (Annexure/A4) and on receipt of the posting order dated 11.12.97 (Annexure/A5) he reported for joining on 20.12.97(FN) by a letter dated 20.12.97 (Annexure/A6 to the application). But the applicant stated that the respondents received the normal rent from him for the period upto 31.12.97 due to retention of the quarter. According to the applicant, the respondents received the damage rent to the extent of Rs.1548/- only for retention of the quarter for the period from 1.7.97 to 31.12.97 and it is stated that thereby he is entitled to retain the quarter at Calcutta in pursuance of the repatriation order communicated to him by an order dated 26.9.97 (Annexure/A4 to the application) and the Department has no authority to cancel the same and thereby the respondents be directed to allow him to retain the quarter for occupation of the family members at Calcutta as per rules.

2. The respondents have denied the claim of the applicant and filed a written reply stating interalia that the applicant was transferred on deputation to Navoday Vidyalaya Samiti which is an autonomous body at Shillong and according to the allotment rules, the applicant is not entitled to retain the quarter on being posted in the office of the autonomous body on deputation and hence his order of allotment was cancelled due to his transfer to outside Calcutta on deputation. It is stated that since the Navoday Vidyalaya is an autonomous body, the applicant is not entitled to get benefit of allotment rules of Central Government for the purpose of retention of family members at Calcutta and despite the allotment order has been cancelled by

the authority, he did not vacate the quarter and for which an eviction proceeding was initiated against him. Moreover, the applicant was never permitted to retain the quarter at Calcutta. So, the application should be dismissed.

3. Mr. P. Chatterjee, learned counsel leading Mr. K.C. Saha, learned counsel submits that the applicant is a Central Government employee. He has been transferred to North Eastern Region on deputation and on deputation he did not cease to be a member of the CPWD. Thereby he has right to retain the quarter at Calcutta on transfer on deputation to the office which is located in the North Eastern Region. So, entire action of the respondents including order of cancellation is illegal, arbitrary and liable to be quashed. It is also submitted by the learned advocate, Mr. Chatterjee that the respondents received the damage rent from the applicant by issuing receipt on 12th August, 1997 vide Annexures at 'A/7' and from that it is found that by issuing the receipts bearing No. B 423214 and B 423543 dated 12.8.97 and 5.9.97 respectively the respondents received the damage rent for the occupation of the quarter by the applicant upto the period of 31.12.97. So, the respondents are estopped to raise the plea that he is not entitled to retain the quarter at Calcutta. But Mr. Mukherjee, learned counsel for the respondents submits that as per allotment rules relating to the civilian Central Government employees serving in the states of Assam, Meghalaya, Nagaland and Tripura, and Union Territories of Arunachal Pradesh and Mizoram (These two Union Territories have now become states) Andaman and Nicobar Islands and Lakshadweep the applicant is not entitled to retain the quarter since he has been posted on deputation to autonomous body upto 31.9.97. Since he is not entitled to retain the quarter in view of Instruction VI under Rule 18, as embodied in page 88 of the Compendium of the Allotment of Government Residences (General Pool in Delhi) Rules, 1963, and Gist of the Instructions issued by the Ministry of

Urban Development and Directorate of Estates, he is not entitled to get any benefit and thereby the application should be dismissed. He further submits that the applicant did not apply for retention of the quarter and no order has been passed by the competent authority to accept the damage rent from the applicant and hence the two receipts bearing No. mentioned above (Annexure/A7 series) cannot be accepted and those receipts do not confer any right on the applicant to retain the quarter at Calcutta. But, however, Mr. Mukherjee submits that since the applicant has been repatriated from deputation, he could have applied for retention of the quarter in accordance with the rules. If any application is filed, his case may be considered by the Department for allotment of quarter at Calcutta in accordance with the rules.

4. I have considered the submissions of the learned counsel of both the parties. Regarding the retention of the quarter I find that there is a specific rule in this regard and sub-instruction (vii) of Instruction VI under Rule 18 of Civilian Central Government Employees serving in the States of Assam, Meghalaya, Nagaland and Union Territories etc. runs as follows:

"The orders are applicable only in case the officials are posted to Central Government offices, offices of the Union Territories and these orders will not be applicable in cases where officers are posted to Public Sector Undertakings, Government Companies, autonomous bodies etc."

5. In view of the said provision there is no dispute before me that Navoday Vidyalaya Samiti is an autonomous body though falls within the territory of Meghalaya in the North-Eastern Region. So it is clear that the applicant being posted on deputation to autonomous body is not entitled to retain the quarter at Calcutta. Therefore, the applicant was bound to vacate the quarter after the expiry of the permissible limit under the rules, but he did not vacate the same and he continued

to retain the quarter till date. In the meantime it is found that he has been repatriated to his parent Department and posted to North Eastern Region at Guwahati by an order dated 26.9.97 (Annexure/A4). Since he has been repatriated to a Central Government office situated at Guwahati, he would have been entitled to retain the quarter from the date of repatriation, as per existing rules. For that according to Mr. Chatterjee he had applied for retention of the quarter. But it is curious to note that the original allotment of the quarter has been cancelled by the authority on 30.5.97 and that order has been communicated to the applicant. And it is found that all things happened after the cancellation of the allotment of the quarter by a letter dated 30.5.97 since the applicant was not entitled to retain the quarter as per rules. After cancellation of the said allotment the Department had initiated an eviction proceeding against the applicant. All these facts have not been stated in the application. It is stated by the applicant that Estate Officer declined to allot quarter to the applicant at Calcutta. But he suppressed the fact that the order of allotment has been cancelled by a letter dated 30.5.97. It is not understood how the applicant deposited the amount vide receipts marked as Annexure/A7 series after cancellation of the order of allotment vide letter dated 30.5.97 and that two receipts appear to be spurious one. The applicant could not produce any document that amount was received on the basis of any application made by him to the authority. So, in view of the aforesaid circumstances I find that the order of cancellation is justified since the applicant did not vacate the quarter after prescribed limit under the rules of transfer on deputation to an autonomous body at Shillong. So, the applicant is not entitled to get any relief in this case for the period upto the deputation in the autonomous body, i.e., upto 30.9.97 and the respondents are entitled to take proper steps in accordance with the law for the said period.

However, it is found that the applicant has been repatriated to the parent Department with effect from 30.9.97 and he applied for retention of the quarter at Calcutta on the basis of the order of repatriation dated 30.9.97. I find that that case should be considered by the authority according to its own merit. However, the matter relating to the retention of the allotment on the basis of the repatriation order dated 30.6.97 can be considered by the competent authority in accordance with the rule. So, it may be mentioned that appropriate authority may decide the case on merit and decision can be taken in accordance with the rule in respect of retention of the quarter on the basis of the application made by him. But it be mentioned that the applicant would not get any benefit or relief in respect of the period prior to 30.9.97. The application is dismissed with the aforesaid observation. No costs.

8/10/98
30/10/98

(D. Purkayastha)

MEMBER (J)