

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

ERNAKULAM BENCH

O. A. No. 297 of 1992.

DATE OF DECISION 17-2-1993

KJ Paulose Applicant (s)

Mr M Paul Varghese Advocate for the Applicant (s)

Versus
Senior Superintendent of Post Offices
Alwaye Postal Division Respondent (s)
Alwaye and others

Mr P Sankarankutty Nair, ACGSC Advocate for the Respondent (s)

CORAM:

The Hon'ble Mr. N Dharmadan, Judicial Member
and

The Hon'ble Mr. R Rangarajan, Administrative Member

1. Whether Reporters of local papers may be allowed to see the Judgement?
2. To be referred to the Reporter or not? ~~no~~
3. Whether their Lordships wish to see the fair copy of the Judgement? ~~no~~
4. To be circulated to all Benches of the Tribunal? ~~no~~

JUDGEMENT

Shri N Dharmadan, J.M

The applicant is aggrieved by the impugned orders dated 21.11.90 and 25.3.91 at Annexure-IV and V by which his occupation in C3 Type-III Quarters of Alwaye Postal Staff, ~~was held to be~~ unauthorised making him liable to pay penal licence fee for the period of his occupation of the quarters from 1.8.90 to 10.6.92.

2 According to the applicant, while working as Sub Postmaster (LSG), Parur P.O. with effect from 1.6.90, (he took charge in the promoted post at Parur), he retained the occupation of C3 Type-III quarters at Alwaye which was originally occupied by him while working ~~xx~~ at Alwaye on the ground that there is no Type-III

quarters available at Parur. He further submitted that the area prescribed for Type-II quarters as per the existing instructions is 484 Sq.ft, while the applicant is eligible for Type-III quarters having 600 Sq.ft. The quarters at Parur is only having ⁴ plinth area of 442 Sq.ft. which is even less than the requirement for Type-II quarters. The applicant also submitted that it is not hygienic for him to occupy the available quarter at Parur. He ~~had~~ relied on Annexure.VIII government circular dated 15.4.72 issued by the DG, P&T in connection with the allotment of quarters to Postal employees and submitted that his occupation of quarters at Alwaye is permissible and the respondents ought to have been granted permission. The lack of facilities of government quarters at Parur ^{out of} as pointed out by the applicant was noted by the Officer ^{that was} who inspected the place and incorporated in the report.

When the official ~~had~~ visited the place on 26.4.88, 3.10.88 and 22.3.89 it was noticed that the applicant was not provided with sufficient accommodation facilities at Parur. Hence he was compelled to occupy the quarters at Alwaye. On this ground, the applicant is not liable to pay any penal rent for his occupation of quarters at Alwaye.

3 In the rejoinder it is averred that the applicant has been transferred to Thottumugham Post Office w.e.f. 10.6.92 and necessary permission was also granted to him to continue his occupation of quarters at Alwaye from 10.6.92.

4 In view of the further development after filing this DA and the transfer of applicant from Parur to Thettumugham Post Office, the applicant has submitted that he may be given an ~~extreme~~ opportunity to file a representation before Respondent-1 to place his claim for regularising his occupation of quarters at Alwaye from 1.6.90 till 10.6.92 notwithstanding his transfer from Alwaye to Parur. He further submitted that penal rent has already been recovered and the question of refund of the same may also be considered in case his representation is considered favourably and relief granted to him as per the claim.

5 Having regard to the facts and circumstances of the case we are of the view that in the light of the submission made by the learned counsel for the applicant it is not necessary for us to go into the legality of the orders which are under challenge in this case. In the light of the transfer order passed on 10.6.92 and the subsequent permission granted to the applicant for his continued occupation of quarters at Alwaye, it is fit and proper to leave the matter to be decided by Respondent-1 afresh in the light of the aforesaid facts ~~and~~ ^{above} we are satisfied that the application can be disposed of directing Respondent-1 to consider the claim of the applicant as indicated in the light of the representation that may be filed by the applicant within 2 weeks from the date of receipt of a copy of the judgment.

6 Accordingly, we direct the applicant to file a detailed representation in this behalf within the

specified time before Respondent-1. If such a representation is received, the ^{1st} ~~the~~ respondents shall consider and dispose of the same in accordance with law within a period of two months from the date of receipt of the same.

7 The application is disposed of as above.

There will be no order as to costs.


(R Rangarajan)
Administrative Member


(N Dharmadan)
Judicial Member
17.2.93

17-2-1993