

Central Administrative Tribunal Lucknow Bench Lucknow.

O.A. No. 310/2008

This, the 15th day of September, 2008.

Hon'ble Shri M. Kanthaiah, Member (J)

Gyan Prakash Sharma s/o late Sri Suresh Dutt Sharma
r/o J.E, E/M, G.E., Air Force, Bakshi Ka Talab, Lucknow.

Applicant.

By Advocate: Shri S.Chandra

Versus

1. Union of India through the Secretary, Ministry of Defence, New Delhi.
2. The Garrison Engineer, MES, Faizabad.
3. The E.E. (SG), GE, MES, Faizabad.
4. Nayab Subedar, P.M. Vergese, G.E. MES, Faizabad.

Respondents.

By Advocate: Shri S.P.Singh

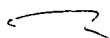
ORDER

By Hon'ble Shri M. Kanthaiah, Member (J)

The applicant has filed Original Application with a prayer to issue direction to the respondents for providing accommodation to him till completion of BSC course of his daughter on the ground that the respondents are acting in most arbitrary manner in not providing accommodation to his family and also not considering the circumstances of his family.

2. The respondents have filed counter reply denying the claim of the applicant stating that in spite of asking the applicant to vacate the quarter vide order dated 21.8.2008, he has not vacated the same.

3. Heard both sides.



4. The point for consideration whether the applicant is entitled for relief as prayed for.

5. The admitted facts of the case are that the applicant who has been working as J.E. ,E/M under the respondent No. 2 at Faizabad has been transferred from the office of respondent No. 2 to Lucknow office vide order dated 6.5.2008 (Annexure No.A-2). While he was working under respondent No.2, he was provided quarter bearing No. 8 MES, Colony, Near Lai Kurty, 'C' Type Quarter, Faizabad Cantt. Faizabad. The applicant made representation on 12.6.2008 for seeking retention of one grade down quarter on the ground that his daughter is studying I KSPG College ,Ayodhya, Faizabad in BSC II year stating that the said syllabus is different from other universities. But the respondent No.3 did not agree with his request and sent letter (Annexure A-1) dated 18.7.2008 , asking him to vacate the quarter till 24.7.2008 otherwise market rent will be charged. It is also the case of the applicant that he is prepare to pay the market rent. He also filed Supplementary Affidavit, stating that he has not been allotted any accommodation at Lucknow after his transfer and filed certificate dated 1st September, 2008 issued from Lucknow office. The applicant has filed the O.A. on the ground that the authorities are acting in most arbitrary manner for vacating him from the quarter.

6. It is also not in dispute that applicant gave divorce to his wife and as such she is not residing with him. The applicant wants this quarter or any other one down grade quarter for the purpose of his daughter for completion of her education of BSC course at Faizabad by staying along with the nephew of the applicant. Admittedly, as per rules, employees are entitled to retain the govt. accommodation only for 2 months after his transfer. Subsequently, the respondent No.3 also issued another letter dated 21.8.2008 (Annexure CA-5) stating that the applicant has not vacated the quarter after expiry of permitted period on 24.7.2008 and thus asked him to pay market rent of Rs. 4785.10 paise for his unauthorized occupation and advised him to vacate the quarter

by 31st August, 2008, failing which the authorities will be approached for eviction and they are not liable for any discrepancy/ damage of his personal belongings.

7. It is also the case of respondents that three employees after their transfer have joined at Faizabad under respondent No. 3 and they are waiting for allotment of quarter at Faizabad but due to non vacation of the quarter by the applicant, they are not in a position to allot quarter to the transferred employees.

8. It is the case of the applicant that because of education of his daughter, he has requested for retention of the quarter and he is also prepared to pay the market rent and thus made a representation to the authorities but they did not grant any extension of time after expiry of earlier permitted period upto 24th July, 2008. It is also not in dispute that the applicant gave divorce to his wife and he get some family problems and as such he wants to continue the education of his daughter at Faizabad only and also contends that its syllabus is entirely different with other universities. No doubt, the employee is suppose to vacate the quarter after his transfer enabling the authorities to provide such facility to in coming officers. Admittedly, in the instant case also, three of the transferred officers have joined there at Faizabad office are waiting for allotment of quarter. In such circumstances, the authorities are justified in passing orders rejecting the claim of the applicant for retention of quarter for further period beyond 24th July, 2008 but in the order of the respondents dated 18th July, 2008 (Annexure A-1), they have informed the applicant that if he fail to vacate the quarter in due date, the market rent will be charged. But in subsequent letter dated 21.8.2008 (Annexure A-5), the authorities who demanded damage rent treating unauthorized occupant of the applicant after 24th July 2008 claimed market rent totaling Rs. 5785.10 paise and asked him to vacate the same by 31st August, 2008, failing which they would take steps for evicting the applicant.

9. When the applicant is prepared to pay the market rent for retention of this quarter and if the rules permits for such continuance, the authorities are directed to consider the same and collect market rate from the applicant and if they are only interested in eviction of the applicant, they are at liberty to take the same after following the due process of law. But it is also the request of the applicant for allotment of any other quarter, one grade down quarter for the purpose of accommodating his daughter, for completing of her education, there on the ground he did not occupy any quarter at Lucknow after his transfer from Faizabad.

10. In view of the above circumstances, the O.A. is disposed of with a direction to the respondents No. 2 and 3 to consider the request of the applicant for continuation of the same quarter on market rent or for providing any other down grade quarter for the purpose of occupation of his daughter for completion of her education and pass a reasoned order on the representation of the applicant within three weeks from the date of supply of copy of this order to respondents No. 2 and 3 and till such period, permit the applicant to continue in the same quarter on payment of market rent. The applicant is also directed to submit his representation along with the order of this Tribunal for consideration of his claim. No costs.

HLS/-


(M. KANTHAIAH)
MEMBER (J)

15-09-08