

(2)

Annexure - A
CAT- 02
CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD
CIRCUIT BENCH, LUCKNOW

A/1
1

B/1

INDEX - SHEET

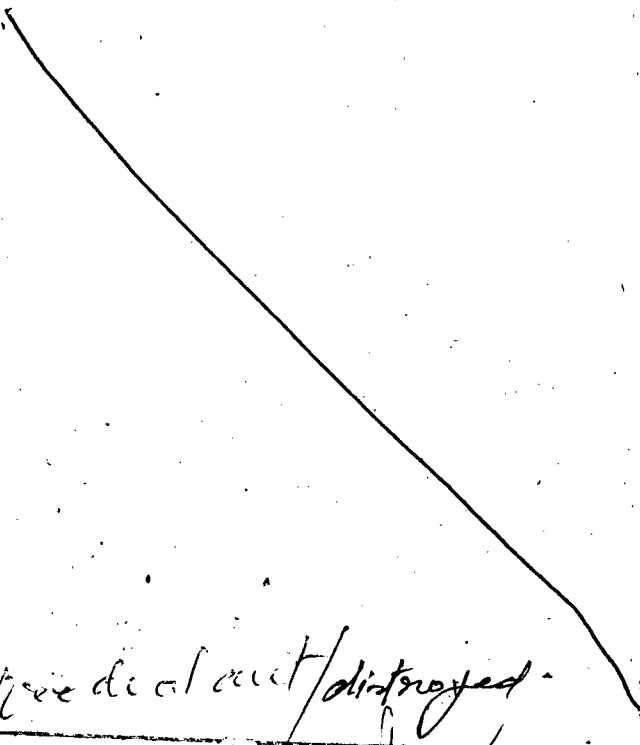
CAUSE TITLE Reg. O.A. No 14 - OF 1988 (2)

Name of the Parties Ved Prakash

Versus

Union of India & others

Part A, B and C

Sl.No.	DESCRIPTION OF DOCUMENTS	PAGE
A1	General Index - - - - -	1 ✓
A2	Order sheet - - - - -	1 ✓
A3	Judgement dated 30/3/89	2 ✓
A4	Petition along with annexures	21 ✓
A5	Short Counter affidavit - -	5 ✓
A6	Rejoinder affidavit - - -	8 ✓
B1	Vakalatnama - (Power) -	1
B2	Memorandum of Appearance -	1 ✓
		

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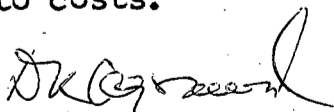
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:: 2 ::

to allow him to retain the said accommodation up to June, 1988, but, due to shortage of married accommodation in the Station, the request of the applicant was not granted, as his successor was in need of the said accommodation. The applicant was advised vide letter dated 9.3.88 to vacate the residential accommodation by 20.3.1988, failing which the market rent of accommodation would be imposed upon the applicant with effect from 8.1.1988, the date, he was struck off strength from the Station. The applicant continued to make representation on one ground or the other through his present Headquarters and he was informed vide letter dated 4.4.1988 that he should vacate the accommodation by 20.4.1988, failing which penal rent will be enforced against the applicant. The applicant has vacated the accommodation on 12.5.1988. However, final orders of enforcing the penal rent have not been passed.

3. No one was present for the applicant on the date of final hearing. We have considered the matter and we find that no order imposing penal rent has been passed by the Respondents. The prayer of the applicant is based on presumption. As the applicant has vacated the house and no order enforcing the penal rent has been passed by the respondents, the application has become infructuous. Accordingly, we dismiss the application without any order as to costs.



J.M.



A.M.

(sns)

MARCH 30, 1989.

CA 14 of 2012
Ved Prakash vs U.O 2
Order Sheet

(A2)
1

Hon S. Zabeer Hassan VL
Hon A. John AM

20.4.88

Adm 1, Show Cause by 23.5.88
for DR.

Adm
14/c

23.5.88

Hon A. John AM
Hon R. S. Sharma JM

DR and grant S.

Adm
14/c

for filing C.A. 22.0.00.

ms3

22.0.00

D.R (J)

On the requests of respondent's
counsel, the case is adjourned
to 22.9.00 for Reply.

D.R

22.9.00

DR

On the requests of counsel for
respondent, he is allowed to file reply
by 27.10.00.

DR

27.10.88

Respondent file reply.
In Applicant's A. Kan. sent
Copy of reply Rec 21.12.88
reply

27.10.88

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2

-: 2 :-

(F) Appendix F:
retention
Application of residential
accommodation dated 3.2.88

15.2.16

(G) Appendix G
Agra
Station Hqs. letter No. 585001/
5/0/0 dated 9th March 88 - The
market rent shall be levied
w.e.f. 8.1.88

17

(H) Appendix H:
Application of applicant No.
46936/LC0 dated 15.3.88

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(I) Appendix 'I'
Station Commander, Agra letter
No. 585001/5/0/0 dated 4.4.88 -
the penal rent will be enforced
against the officer.

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K.P. Singh

For use in Tribunal's
Office:

Signature of the Applicant
(Ved Prakash)

Date of receipt by Post
Registration No.

Signature for Registrar

14/3

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, ADDITIONAL
BENCH ALLAHABAD, SITTING AT LUCKNOW

BETWEEN

Ved Prakash, Assistant Director,
Defence Estates, 17, Carrippa Road,
Central Command, Lucknow Cantt. APPLICANT

AND

1. The Union of India, through Ministry of Defence,
South Block, New Delhi
2. GOC-in-Chief, Central Command,
Lucknow Cantonment
3. The Station Commander,
Station Headquarters,
AGRA RESPONDENT

DETAILS OF APPLICANT

1. Particulars of the applicant:

- (i) Name of the applicant - Ved Prakash
- (ii) Name of father - Late Shri Budh Singh
- (iii) Age of the applicant - About 41 years
- (iv) Designation and particulars of office (name and station) in which employed, or was last employed before ceasing to be in service:
ASSISTANT DIRECTOR, Office of the Director,
Defence Estates, HQ. Central Command,
17, Carrippa Road, Lucknow Cantonment.
- (v) Office Address - Director, Defence Estates,
Ministry of Defence, HQ. Central Command,
17, Carrippa Road, Lucknow Cantonment.

..... 2/-

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u

vi) Address for service of notice:

Ved Prakash, Assistant Director,
Defence Estates,
17, Carrippa Road, Central Command,
Lucknow Cantonment.

2. Particulars of the respondent:

- i) Union of India, through ~~Minis~~ Secretary,
Ministry of Defence, South Block, New Delhi
- ii) GOC-in-Chief, HQ Central Command, Lucknow Cantt.
- iii) Station Commander, Station Headquarters, Agra

3. Particulars of the orders against which application
is made:

The application is against the following order :-

- i) Order No. - 585001/5/O/Q
- ii) Dated - 9.3.88 and 4.4.88
- iii) Passed by - Adm. Commandant (Cl-I) for Station
Commander, Agra.
- iv) Subject in brief - Order regarding recovery of
market rent/penel rent on the accommodation
allotted to him when he was posted as Defence
Estates Officer, Agra Circle, Agra Cantonment.

4. Jurisdiction of the Tribunal :

The applicant declare that the subject matter
of the order against which he wants redressal is within
the jurisdiction of the Tribunal as the applicant is
posted in Lucknow on the post of Assistant Director,
Defence Estate, HQ Central Command, 17 Carrippa Road,
Lucknow Cantonment.

5. Limitation :

The applicant further declares that the application
is within the limitation period prescribed in Section 21
of the Administrative Tribunal Act, 1985 as the orders

Ved Prakash

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against which the application is being made were passed on 4.4.1988.

6. Facts of the case:

The facts of the case are given below :-

- a) That the applicant was transferred and posted as D.E.O. Agra in the year 1986 and he was allotted accommodation ~~at Agra~~ Bungalow No. 116, Raj, Road, Agra Cantonment (1/2 portion) and an allotment order dated 4.7.86 was issued to the applicant. True copy of the said order/agreement duly signed by the applicant and the Adm. Commandant, for Station Commander, Agra is being enclosed as Ann. 'A'.
- b) That the applicant was transferred on the post of Assistant Director, Defence Estates, HQ. Central Command, Lucknow Cantonment where he joined on 8.1.88 (F/N)
- c) That since one son and one daughter of the applicant are studying at Agra^(a) as such it was not possible for the applicant to shift his family in the middle of academic session. The applicant moved an application on 5.12.87 to the Station Hqs. Agra Cantt. with a copy to Director, Defence Estates, HQ. Central Command, Lucknow Cantonment and Director General, Defence Estates, Ministry of Defence, R. K. Puram, New Delhi requesting for allowing the applicant to retain the accommodation at Agra only upto 30.6.88 or till the end of academic session whichever is earlier. Copy of the said application is being annex as Annexure 'B'.
- d) That the Director General, Defence Estates, Ministry of Defence, New Delhi issued a letter dated 30.12.87 to the Director, DE, Central Command, Lucknow Cantonment and advised him to settle the matter with 'C' Branch, HQ. Central Command, Lucknow Cantt. Copy of the said letter dated 30.12.87 is enclosed as Annexure 'C'.
- e) That the Director, Defence Estates, Central Command, Lucknow recommending the case of the applicant wrote a internal note to the 'C' Branch HQ. Central Command, Lucknow Cantt. by which he

② in class 12th and
B.Sc.-I respectively
with

see question

Ag
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requested that the Station Headquarters, Agra may be directed to allow the Applicant to retain the accommodation at Agra till 30.6.88 or till the end of session whichever is earlier. Copy of said letter dated 13.1.88 is enclosed as Ann. 'D'.

f) That in response to the I.O.N. dated 13.1.88, the HQ. Central Command, Lucknow Cantt. sent a letter to the Director, Defence Estates, Central Command, Lucknow Cantt. indicating that the applicant be advised to approach to the Station Commander, Agra. Copy of the said letter dated 27.1.88 is enclosed as Annexure 'E'.

g) That in pursuance thereof the applicant again made application to the Station Commander, Agra on 3.2.88 mentioning his difficulties regarding not vacating the house in question in the said application it was also mentioned that the accommodation was not allotted to him as earmarked house of the DEO Agra. The applicant also mentioned that during the period of posting of Shri D.D. Anand, the then MEO (now designated as DEO) the house was allotted to another officer other than DEO/MEO. Copy of the same application dated 3.2.88 is enclosed as Annexure 'F'.

h) That ~~in the kkkkkkkkk~~ Adm. Commandant ~~for~~ for Station Commander, Agra vide his letter dated 9.3.88 directed the applicant to vacate the house by 20.3.88 otherwise market rent shall be levied w.e.f. 8.1.88 without any further notice. Copy of the said order dated 9.3.88 is enclosed as Annexure 'G'

i) That in the letter dated 9.3.88 it was wrongly

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mentioned that the House No. 116, Taj Road, Agra Cantonment was earmarked as an house of DEO and was allotted to the applicant as such in turn it was also wrongly mentioned that the house was urgently required by Shri O. P. Mishra, predecessor. That it is pertinent to mention that when Shri Mishra came Agra on his posting the applicant allowed him to stay in the house of the applicant, the applicant gave possession of the 2 rooms and toilet etc. (near about 1/2 portion of the accommodation in question) and since joining of Shri Mishra as DEO Agra he is living conveniently in the accommodation without even paying any rent of the accommodation in question.

- j) That the applicant again moved an application to the Station Commander, Agra for reconsidering the issue vide an application dated 15.3.88 copy of the said application is enclosed as Annexure 'H'.
- k) That the Station Commander, Agra vide his order ~~dated~~ dated 4.4.88 without considering that the facts and circumstances and the contention of the applicant directed to the applicant to vacate the house by 20.4.88 otherwise penal rent will be charged for the accommodation. Copy of the said order dated 4.4.1988 is enclosed as Annexure 'I'.
- l) That the applicant has not yet been allotted any married accommodation in Lucknow although he joined here at Lucknow in January, 1988 and applied for the same. The applicant is entitled to retain accommodation allotted to him at Agra till any suitable accommodation allotted to him at Lucknow.

use for

- (14/8)
- m) That it is ^{Perbinnu}~~portant~~ to mention for example that Shri R.B. Bhasker, the then DEO Lucknow was posted and transferred as DEO Jammu in April 87 and he was allotted in Bungalow No. 2-E, Rafi Ahmad Kedwai Marg, Lucknow Cantonment. The said accommodation has not yet been vacated by Shri Bhaskar at Lucknow and family of Shri Bhaskar is still living in the said accommodation.
- n) That the request/directions issued by the higher authorities i.e. Director, Defence Estates, Central Command, Lucknow Cantonment vide his letter dated 13.1.88 are not being complied with or being followed by the lower officer i.e. Station Commander, Agra which ^{is} against the principle of the official functioning and ~~higher authority~~ hierarchy.
- o) That the abovesaid house ^{was} ~~is~~ not earmarked house for the D.E.O. before its occupation and retention should be regulated as per normal procedure as applicable to the station pool accommodation.
- p) That the impugned orders dated 9.3.88 and 4.4.88 are vague and ambiguous in as much as the rate of market rent and penal rent as not being specified. It was also not mentioned in the said orders that under which provision of law or policy of the Government the same is being levied against the applicant.
- q) That the orders dated 9.3.88 and 4.4.88 passed by the Station Commander, Agra are arbitratary, malafide, discriminatory and were passed without considering the facts and circumstances of the applicant matter.
- well known*

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7. Relief(s) sought:

In view of the facts mentioned in para 6 above,
the applicant prays for the following relief(s):-

- a) That the order dated 9.3.88 passed the
Station Commander, Agra containing the
Annexure 'G' levying market rent be set aside.
- (b) That the order dated 4.4.88 passed by the
Station Commander, Agra containing the Ann. 'I'
levying penal rent be set aside.
- (c) Any other relief which this Hon'ble Tribunal
deem just and proper be awarded to the applicant
alongwith cost of litigation.

8. Interim order, if prayed for:

Pending final decision on the application, the
applicant seeks issue of the following interim
order :-

- i) Operation of the order dated 9.3.88
containing as Annexure 'G' may be stayed.
- ii) Operation of the order dated 4.4.88
containing as Annexure 'I' may be stayed.

9. Details of the remedies exhausted:

The applicant declares that he has availed of all
the remedies available to him under the relevant
service rules etc.

That although there is no statutory provision
or administrative instructions with regard to making
appeal or memorandum with regard to retention of the

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the accommodation after transfer and posting but the applicant approached the Director General, Defence Estates, Ministry of Defence, R.K. Puram, New Delhi and Director, Defence Estates, HQ. Central Command, Lucknow Cantt. vide his application dated 5.12.87 and the Director, Defence Estates, HQ. Central Command, Lucknow was also pleased to issued to direction in favour of the applicant vide I.O.N. dated 13.1.88 but in utter dis-regarding of the said directions the Station Commander, Agra passed the impudging orders hence there is no remedy but to approach this Hon'ble Tribunal.

10. Matter not pending with any other court, etc.:

The applicant further declares that the matter regarding which this application has been made is not pending before any court of law or any other authority or any other Bench of the Tribunal.

11. Particulars of Ban Draft/Postal Order in respect of the Application Fee :

1. Number of Indian Postal Order(s) ^{DD 829982 dt 27-4-88}
4
one only

12. Details of Index :

An index in duplicate containing the details of the documents to be relied upon is enclosed.

13. List of enclosures -

Annexure 'A' - Allotment letter dated 4.7.86.

Annexure 'B' - Application moved an application dated 5.12.87 for retention of Bungalow No. 116, (residential portion) Taj Road, Agra Cantt.

... 9/-

vedh

- Annexure 'C' - Copy of the Dte. General, DE, New Delhi letter dated 30.12.1987.
- Annexure 'D' - Copy of I.O.N. Director, DE, HQ. Central Command, Lucknow dated 13.1.1988.
- Annexure 'E' - Copy of the GOC-in-Chief, HQ. Central Command, Lucknow letter dated 27.1.88.
- Annexure 'F' - Copy of the application dated 3.2.88 moved by the Applicant.
- Annexure 'G' - Copy of Station Commander, Agra letter dated 9.3.88.
- Annexure 'H' - Copy of the Applicant letter dated 15.3.88.
- Annexure 'I' - Copy of Station Commander, Agra letter dated 4.4.88.

In verification :

I, Ved Prakash S/O Late Shri Budh Singh, aged about 41 yrs working as Asstt. Director, Defence Estates, HQ. Central Command, 17, Carrippa Road, Lucknow Cantonment do hereby verify that the contents from 1 to 13 are true to my personal knowledge and belief and that I have not suppressed any material facts.

Place : Lucknow

Ved Prakash
Signature of the Applicant

Dated : 16 April, 1988.

To

The Registrar,
Lucknow.

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APPENDIX B

To,
The Station HQ,
Agra Cantt
Sub:- Allotment/retention of B.No. 116 (residential portion)
Taj Road

The above said house was allotted to me on my posting as D.E.O. Agra. I have now been transferred as Assistant Director, Defence Estates, Central Command Lucknow. I am likely to take up my new assignment shortly. But my children (one daughter and one son) are studying here. It is difficult to shift them to Lucknow in the middle of the educational session. As such, it is requested that I may kindly be allowed to retain the above said house till 30th June 1987 or till the end of the session, whichever is earlier.

It is relevant to add here that the present D.E.O. Agra, viz. Sh. D. P. Mishra is reliably learnt to have approached station HQ Agra for allotment of the above said house on the false representation of the facts to the effect that the said house is an appointment house for the D.E.O. This is totally false otherwise there was no necessity to get it allotted from station HQ from time to time. As such the above said house is a general pool accommodation and its allotment/retention has to be regulated as per normal rules. This aspect may kindly be kept in view while taking action on the request of Sh. D. P. Mishra.

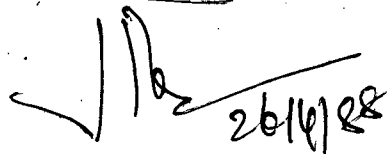
Dated 05/11/87

Ved Prakash
(VED. PRAKASH)
A.D.D.E. (Designate)

cc:

- (1) Director, D.E., Central Command Lucknow
- (2) Director General, D.E., R.K. Puram, New Delhi

ATTESTED


26/11/88

Defence Estates Officer,
Lucknow Circle, Lucknow-Cantt.

with request that Sh. Mishra may be advised not to behave in an undignified manner. He may be reminded of the fact that it was I who had allowed him to stay with me free of charge, a facility which he still continues to enjoy unabashedly.

APP — CC
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REGISTERED.
No. 123/22/ADP/LAC.
Government of India,
Ministry of Defence,
Dte. Gen. Defence Estates,
West Block No.4, R.K. Puram,
NEW DELHI-66, the Dec, 1987.

To

The Director, DE,
Ministry of Defence,
Central Command, LUCKNOW (U.P.)

Subject : ALLOTMENT/RETENTION OF B.No. 116 (RESIDENTIAL
PORTION) TAJ ROAD.
..... 8.46

Reference a representation made by Shri Ved Prakash,
Asstt. Director, Defence Estates, Central Command dated 5.12.87
addressed to the Station HQrs, Agra Cantt and copy to you among-st
others.

2. You may please take up the matter with 'Q' Branch for its
settlement.

[Signature]
Director, DE,
Defence Estates.

Copy to :-

Shri Ved Prakash,
Asstt. Director,
Defence Estates,
Central Command,
LUCKNOW.

For information with reference to
his representation dated 5.12.87.

ATTESTED

[Signature]
26/4/88
Defence Estates Officer,
Lucknow Circle, Lucknow-Cantt.

RECORDED	✓
INDEXED	✓
FILED	✓
DATE	26/4/88
BY	<i>[Signature]</i>

54
511

Annexure D/

13

56

M
15

I.O.N.

Dte. DE HQ. CC

No. 46936/LC 56

SUB: ALLOTMENT/RETENTION OF BUNGALOW NO. 116
(RESIDENTIAL PORTION) TAJ ROAD AGRA CANTT.

The above house was allotted to Shri Ved Prakash while he was Defence Estates Officer, Agra Circle, Agra Cantt. Now Shri Ved Prakash has been posted at this Dte. as Assistant Director, Defence Estates and he has reported here for duty on 8.1.1988 (F/N).

His one son and one daughter are studying at Agra as such it is very difficult for him to shift them to Lucknow in the middle of educational session.

It is, therefore, requested that Station Hqs. Agra may please be directed to allow Shri Ved Prakash to retain the above house till 30th June 1988 or till the end of session, whichever is earlier.

Director, DE
13 Jan. '88

Copy to:

Station Hqs. Agra - for information and necessary action in the matter.

ATTESTED

26/1/88

Defence Estates Officer,
Lucknow Circle, Lucknow-Cantt.

Annexure 'F'

15

No. 46936/Pt/LCO
DTE. OF DEFENCE ESTATES,
HQ. CENTRAL COMMAND,
LUCKNOW CANTT. 03 FEB. '88.

To

Station Hqrs.
AGRA.

Sub: RETENTION OF RESIDENTIAL ACCOMMODATION
BY SHRI VED PRAKASH, ERSTWHILE DEO AGRA CIRCLE.
.....

Reference your letter No. 585001/5/O/D dated
26.12.87 received through the D.E.O. Agra Circle.

2. The following few points are enlisted hereunder
for your kind consideration :-

- (i) The subject house was allotted to me as a special case consequent upon my posting as DEO Agra. Even the then Station Commander Brig. Limaye had told me that he was making the departure from his policy of not allotting accommodation to the Civilian officers in the Station as a very special case.
- (ii) That a similar observation was made when the house was allotted to my predecessor viz. M.P. Singh the then DEO Agra.
- (iii) That during the period of Shri D.D. Anand who was posted as "DEO Agra" the house was allotted to an officer other than the DEO. This may be checked from your record.
- (iv) That the case has already been taken up by the Director, Defence Estates, Central Command Lucknow with the 'D' branch for the retention of the abovesaid house in my name.

3. In view of the above the contention that the house is ear-marked for the DEO is not correct. However, leaving apart the legalities involved, I earnestly request that I may kindly be allowed to retain the abovesaid accommodation till the end of education session of my children as a special case as hardly 3 months are left for completion of the education session. My request may kindly be considered purely on humanitarian grounds.

Ved Prakash
(VED PRAKASH)

Asstt. Director, Defence Estates,
Central Command,
Lucknow Cantt.

N.O.O.

Internal - Adm. Section of Dte. DE CC

ATTESTED

JR 26/4
Defence Estates Officer,
Lucknow Circle, Lucknow-Cantt.

- Kindly issue suitable instructions to Shri O.P. Mishra, DEO Agra not to harass my family in my absence. He may also be advised that it is a question of hardly 2 to 3 months more for which the abovesaid accommodation may be required by me though I am already making the admission of my immediate.

Annexure 'G'

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Mil Tele : 26

Station Headquarters
Agra

585001/5/0/2

Mar 88

Hq Central Command
Dte of Defence Estate
Lucknow Cantt

RETENTION OF MARRIED AGCN : CIV OFFERS

1. Ref to your letter No 46936/Pt/LCO dt 03 Feb 88.
2. The house No 116 Taj Road occupied by Mr Ved Prakash, ADDE is an earmarked house for DEO, which is only allotted to him in turn.
3. Retention of the said can not be accorded. The house is urgently required to the new incumbent, hence please advise the offr to vacate the house by 20 Mar 88 positively failing which the market rent shall be levied wef 08 Jan 88 (ie the date of posting out from this Stn) without giving any further notice.

(Vijai Singh)
Col
Adm Comdt (C1-I)
for Stn Cdr

Copy to :-

BSO Agra

UABSO Agra

Please enforce the market rent wef 08 Jan 88 incase the offr fails to vacate the house by 20 Mar 88.

/VKN/

1. To
2. To
3. To
4. To
5. To
6. To
7. To
8. To
9. To
10. To

14/3

Shi ved Prakash

18/3 15/3/08

20/14/3

ATTESTED

Defence Estates Officer,
Lucknow Circle, Lucknow Cantt

No. 46936/IC0
 Dte. of Defence Estates,
 HQ. Central Command,
 Lucknow Cantt.
 Dt. 15 March '88.

To

The Stn. Hqrs.
Agra.

SUBJECT: RENTION OF MARRIED ACCN: CIV OFFRS.

Ref. your letter No. 585/5/0/Q dated 09 March '88.

2. The contention of the Stn. Hqrs. that the house No. 116 Taj Road Agra is earmarked house for DEO, Agra is not correct. The same may kindly be verified from records as have been requested from the very beginning. However, if the Stn. Hqrs. Agra decide not to agree to my view point and deliberately choose to favour Shri O.P. Misra, the present DEO, then he may kept in view that a portion of the above said house has been occupied by Shri O.P. Misra since the day he landed in the Agra. Above said portion consists of one big room, one ante room and toilet. Therefore in case market rent is to be charged from me the same should be worked out only for that portion which is under my occupation. The market rent for the portion which is under occupation of Sri Misra may be charged from him. It is pertinent to point out that statement as contained in the Station Hqrs letter cited above to the fact that house is urgently required by the new incumbent is not correct as explained above. Sri Misra is occupying the a portion of the above said house since 20th July 1987 and I do not see any urgency on his part at this stage.

Ved Prakash
 (Ved Prakash)
 Asstt. Director,
 Defence Estates,
 Central Command.

Copy to:-

1. BSO, Agra Cantt) For information.
- 2 The UA, BSO, Agra) *cent*

ATTACHED

26/4/88
 Defence Estates Officer,
 Lucknow Circle, Lucknow Cantt.

Tele Mil: 26

Station Headquarters
Agra

585001/5/0/Q

Apr 88

Dte of Defence Estates
HQ Central Command
Lucknow Cantt

RETENTION OF MARIED ACEN : CIV OFFERS

1. Ref to your letter No 46936/LCO dt 15 Mar 88.
2. Your contention is not agreed to. Inspite of repeated request/reminder the offr has failed to vacate the Govt acen which is urgently required to this stn.
3. The market rent has been enforced wef 08 Jan 88 (ie the date of posting from this stn). It is also worthwhile to mention that in case the house in question is not vacated by Mr Ved Prakash by 20 Apr 88 the penal rent will be enforced against the offr for unauth occupation of Govt acen house No 116 Taj Road Agra Cantt.
4. Please ack.

(Vijai Singh)
Col
Adm Comdt (CI-I)
For Sdn Cdr

Copy to:

BSO (MES) Agra
UA BSO Agra

1. Ref to this HQ letter No 585001/5/0/Q dt 09 Mar 88.

2. It is stated that the house No 116 Taj Road Agra Cantt has not yet been vacated by Mr Ved Prakash, ex DEO Agra. Please enforce the market rent wef 08 Jan 88 for unauth occupation.

3. Please confirm recovery has been enforced.

DEO Agra

bsr/

Shri Ved Prakash
Ward
18/4/88

208
14/4

ATTESTED

Defence Estates Officer,
Lucknow Circle, Lucknow-Cantt.

(As)

IN THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH, LUCKNOW

C.A. No.14 of 1988(L)

Ved Prakash

... Applicant

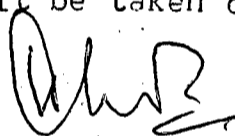
Versus

Union of India and others ... Respondents

APPLICATION FOR TAKING IN FILING COUNTER AFFIDAVIT
ON RECORD.

The applicant/Opposite Party No.3 begs to submit
as under:-

1. That in the above mentioned case the counter affidavit is ready but the same could not be filed earlier.
2. That the counter affidavit is enclosed with this application, and the same may be taken on record.
3. It is, therefore, very humbly prayed that the accompanying counter affidavit be taken on record.



(VK CHAUDHARI)

Addl. Central Govt Standing Counsel
For the Respondents.

Lucknow,

Dated 27 Oct. 1988

(A5/2)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

C.A. No. 14 OF 1988(L)

Ved Prakash

... Applicant

Versus

Union of India and others ... Respondents.

SHORT COUNTER AFFIDAVIT ON BEHALF OF RESPONDENTS.

I, IC-12018 H. Lt Col. R.S. Gupta, aged about 51 years, son of Late B. Jai Deo Gupta at present posted to Station Headquarters, Agra (U.P) in the office of the Respondent No.3 do hereby solemnly affirm and state as under:-

1988
AFFIDAVIT
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DISTT. COURT
U. P.

1. That the deponent is the Respondent No.3 and is posted to Station Headquarters, Agra (U.P) and has read the application and its annexures filed by the applicant and has understood the contents thereof and is fully conversant with the facts stated in this short counter affidavit.

2. That the applicant while serving as Defence Estates Officer, Agra was allotted Bungalow No.116 Taj Road, (Half portion) with the undertaking from the allottee that he will vacate the accommodation unconditionally on issue of one month notice by the Respondent No.3 and will not claim for alternative accommodation. This was necessary as Bungalow No.116 Taj Road is being utilised as Office-cum-residence of the Defence Estates Officer. A copy of the above allotment letter is being filed as

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Annexure- C-1 to this affidavit.

3. That Bungalow No.116 Taj Road has been earmarked for the DEO as Office-cum-residence accommodation. The half portion of this bungalow has been allotted as residential accommodation to the permanent incumbent and the other half is being used as his office. However, at times, if any DEO does not require the married accommodation this bungalow is being allotted to other officer on the waiting list of the Station to avoid loss of Revenue to the State.

4. That the applicant on receipt of his posting order approached the Respondent No.3 vide his application dated 05 Dec. 1987 to allow him to retain the said portion of the bungalow upto June 1988. Due to shortage of married accommodation in the Station and this bungalow being earmarked for the permanent incumbent sanction was not granted to the applicant because his successor was in need of accommodation.

5. That the applicant on his representation advised vide letter No.585001/5/O/Q dated 09 March 1988 to vacate the portion of the house by 20th March 1988, failing which the market rent of the accommodation would be imposed on the applicant

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with effect from 08 January 1988 is the date he was struck off strength from the Station.

6. That the instructions contained in letter No. 585001/5/O/Q dated 09 March 88 were not complied with by the said officer and he continued to make representations on one ground or the other through his present Hqs. The present Hqs. of the applicant was informed vide Station Hqs. Agra letter No. 585001/5/O/Q dated 4th April 1988 to advise the applicant that market rent has been enforced on him with effect from 08 Jan. 1988 and in case he will not vacate the accommodation by 20 April 1988, the penal rent will be enforced against the applicant. However, final orders of enforcing the penal rent have not been passed as yet. The applicant has now vacated the accommodation on 12 May 1988.

7. That as regards contention of the applicant given in para 6(n) and para 9 of the application, in reply it is stated that the Station Commander has not complied with the instructions are wrong, hence denied. However, it is submitted that The Director, Defence Estates Central Command, Lucknow has no jurisdiction over Station Commanders on such matters.

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8. That it is submitted that it is the administrative authorities who decide the genuineness of cases to accord sanction for retention of houses on posting out, considering accommodation state and other prevailing administrative problems.

9. That it is submitted that market rate of rent should be recovered from the applicant who did not vacate the residence meant for Defence Estates Officer and that too after giving an undertaking that he will vacate the house immediately on orders from Station Headquarters, on arrival of new Defence Estates Officer to the Station.

10. In view of the facts stated above the application filed by the applicant is liable to be dismissed.

[Signature]
Deponent. 03/X/88

Verification

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3/10/88

I, the above named deponent do hereby verify that the contents of paragraphs (~~to~~) are true to my personal knowledge, those of paragraphs *✓ 2* to *✓ 9* are believed to be true by me on the basis of records and information gathered and those of paragraphs (0) to are also believed by me to be true on the basis of legal advice. No part of this affidavit is false and nothing material has been concealed. So help me God.

[Signature]
Deponent. 03/X/88

I identify the deponent who has signed before me and is also personally known to me.

Advocate.

(Ab)
✓

Filed today

4/11/2

Sl. No. 5

IN THE HON'BLE CENTRAL ADMINISTRATIVE TRIBUNAL -

ADDL. BENCH, ALLAHABAD (CIRCUIT BENCH LUCKNOW).

O.A. No.14 of 88(L)

Ved Prakash

-vs- Union of India & others

REJOINDER AFFIDAVIT.

Affidavit of Shri Ved Prakash aged about

1 years, son of Late Shri Budh Singh serving as

Assistant Director, Defence Estates, Central Command,

17, Carriappa Road, Lucknow Cantonment, Lucknow.

Ved Prakash
Deponent.

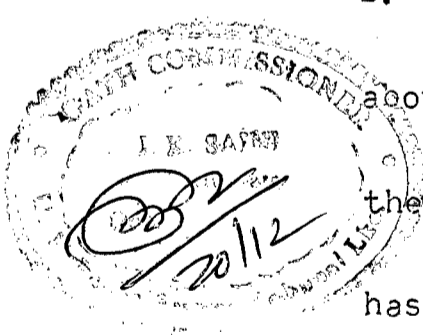
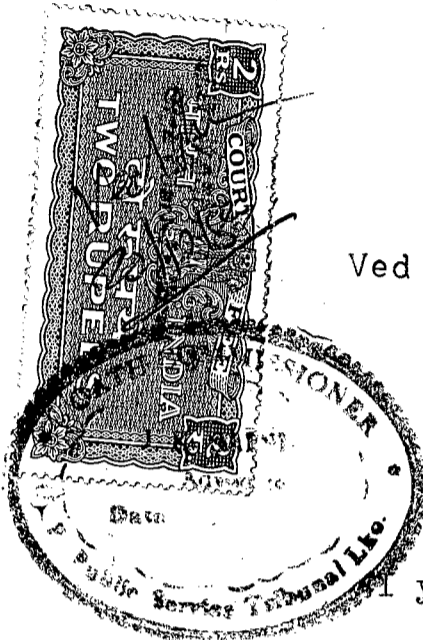
I, the above named deponent do hereby solemnly

affirm and state on oath as under:-

1. That the deponent is the applicant in the above noted case and as such he is fully conversant with the facts deposed to herein under. The deponent has read and understood the contents of Counter Affidavit filed by the Respondents.

2. That para 1 of the counter affidavit is formal and calls for no reply.

3. That in reply to para 2 of the counter affidavit it is submitted that the premises in dispute



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ie. 116 Taj Road, Agra was allotted to the deponent and all required papers were signed by the deponent as a normal course of action to complete the formalities.

There was no such condition in the proforma that even in the middle of academic session of children's education, notice for vacation of the accommodation can be issued and if such condition would have been in the proforma, the deponent must have preferred another accommodation and not only 116 Taj Road, Agra.

4. That it is also submitted that this was wise duty of the policy and Rule maker to make such a justified policy/condition or Rules which can easily be complied with by the incumbent.

5. That it is further submitted that transfer orders are mostly passed in respect of the personnel having school going children only in the end of the academic session and if the same is not feasible, the incumbent is permitted to retain the accommodation upto the end of the Session. As such whole episode concocted by the Respondent is against the principles of natural justice and even absolutely improbable.



6. That the contents of para 3 of the Counter Affidavit are denied because of being self contradictory and it is also submitted that the premises in dispute was allotted to the officer other than Defence Estates Officer during the period of Shri DD Anand, ~~which~~ ^{is} well evident from the records of the Respondents (Annexure 'F' of the application refers).

7. That the contents of para 4 of the counter affidavit are admitted to the extent of the submitting application for retention of the accommodation upto ~~January~~ ^{June} 1988 and rest of the allegations thereof are denied and it is submitted that if the Respondents were in position to offer alternative accommodation to the deponent the same could have been reflected in their replies given to the deponent or the accommodation so spared or resumed could have been allotted to the incoming officer.



8. That in reply to para 5 of the counter-affidavit it is submitted that the advice as referred was unlawful and impracticable as such could not be occupied by the deponent under the pressure of the then prevailing circumstances. There was no safe place in Agra except

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the premises in question to provide the shelter to his family including School going children.

9. That in reply to para 6 of the counter-affidavit it is submitted that no penal rent or market rent can be charged from the deponent because any non-compliance of the instruction if occurred so as alleged was beyond the control of the deponent and was absolutely as a result of the wrong, unlawful, untimely and unjustified action of the Respondents and is liable to be over-looked, and does not warrant any action against the deponent. Realisation of market rent cannot be initiated because the deponent was entitled for the accommodation to be provided during that period by the Government of India and the accommodation was very well under possession of the deponent as a result of the valid allotment order.

10. That the contents of para 7 of the counter-affidavit are denied. The premises in dispute was the property of the Defence for which the Defence Estates Officer is competent authority to protect the same. The Director, Defence Estates, Central Command is the Regional Head of the said authority as such he has



See file

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very well jurisdiction over the Station Commander. The Director, Defence Estates, the Command is also the adviser to the General Officer Commanding the Chief, the Command in the matter of Estates, administration as well as Cantonment administration, owned by the Ministry of Defence in the entire Central Command.

11. That it is also submitted that the deponent was not unauthorised occupant otherwise action to pass the eviction order to evict the deponent from the said premises under Section 5(d) of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 must have been initiated by Station Commander, Agra being Prescribed Authority under the said PPF Act and once the deponent was not unauthorised occupant no market rent or penal rent can be enforced against the deponent.



12. That in reply to para 8 of the counter affidavit it is submitted that the Administrative Authorities have adopted despotic attitude to the detriment of the deponent as such are acting in arbitrary manner against the law on the earth.

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13. That in reply to para 9 of the counter affidavit it is submitted that the undertaking by the deponent was given to pay the assessed rate of rent above the entitlement and not ~~otherwise~~ otherwise.

In this connection it is submitted that during that period the deponent was very well entitled for the accommodation to be provided by the Government of India as such question for non-entitlement does not arise at all. Moreover, assessed rate can not be more than entitlement and which the deponent was well entitled. As such action by the Respondents is against the existing law and Rules and is liable to be struck down by this Hon'ble Tribunal.

14. That the deponent noticing despotic attitude of the Respondents has vacated the said premises disturbing the education of his School -going children with effect from 12.5.1988.

15. That the Respondents failed to consider the circumstances such as the deponent accommodated his successor in the same premises by providing him at about half of portion of the Bungalow in dispute and retained only such accommodation which was very much



Walter

essential for his family members who were staying there for completing their academic session and appearing in the Examination. It was also assured by the deponent that as and when the examination will be over the rest of the accommodation will also be vacated. It is strange that the Respondents became so much prejudiced.

16. In the circumstances, aforesaid the application of the applicant may kindly be allowed and orders of recovery of market rate/rent and penal rent being illegal and against the law and Rules be quashed in the interest of justice.



Deponent
Deponent.

Lucknow,

Dated: 20th Dec. 1988

— Verification.

I, the above deponent do hereby verify that the contents of para 1 to 14 are true to my personal

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knowledge and belief and those of paragraphs
15 & 16 are also believed by me to be true on the
basis of legal advice. No part of this rejoinder
affidavit is false and nothing material has been
concealed.

W. D. Khan
Deponent.

Lucknow,

Dated: 20 Dec. 88

I identify the deponent who has signed
before me and is also personally known to me. ~~and~~
signed on _____ at _____ am/pm in the Court
compound at Lucknow.



(T. N. Tiwari)
Advocate
Counsel for the Applicant.

Lucknow,

Dated: 20 Dec. 88.

Q-10 602m
I have read the affidavit of the deponent who is identified by me as *Veel Puri*
Clerk to *Sari* and I have explained the contents of
this affidavit which has been read out and
signed by me. Received Rs. 1-00 as my fee.

Sigra Kumar Sari
Commissioner of Affidavits
Court Compound Lucknow.
Date _____

20/12/88

Registered

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL AT ALLAHABAD
CIRCUIT BENCH, GANDHI BHAWAN
LUCKNOW

No. CAT/CB/LKO/

Dated :

17.4.89

4.4.89

OFFICE - MEMO

Registration No. O.A. _____ of 1931.

T.A.

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(L)

Applicant's

Ved Prakash

Versus

Respondent's

Union of India

A copy of the Tribunal's Order/Judgement
dated _____ in the abovenoted case is forwarded
for necessary action.

30.3.89

For DEPUTY REGISTRAR (H)
Central Administrative Tribunal

Encl : Copy of Order/Judgement dated _____

30.3.89 Lucknow

To.

- (1) Shri T.N. Tewari C/A
- (2) Shri V.K. Chaudhary C/R
- Shri Ved Prakash, Asstt - Director, Defence
Estates, 17, Carriage
Road, Central Common
Lucknow.

dinesh/
