

REGISTERED

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH
.....

Commercial Complex(BDA),
Indiranagar,
Bangalore- 560 038.

Dated: 16 Nov '87

APPLICATION NO 831 /87 (F)

W.P.No. 1

APPLICANT

Vs

RESPONDENTS

T. Suryanarayana
To

The Dy. Director of Aeds (Postal),
Bangalore and 3 oos.

1. Sri T. Suryanarayana,
Accounts Officer,
Office of the Deputy Director
of Accounts (Postal),
Karmalaka Circle,
Bangalore - 1.
2. Dr. M. S. Nagaraja, Advocate,
No. 25, II Floor, I Main,
Gandhi Nagar,
Bangalore - 3.
3. The Deputy Director of -
Accounts (Postal),
Bangalore - 1.

4. The Executive Engineer,
CPWD, Bangalore Control-
Division - I,
Infantry Road, Bangalore.
5. The Superintending Engineer
CPWD, 55/35, II Main Road,
Vyalikaval,
Bangalore - 560003
6. The Director of Estates,
Government of India,
Nirman Bhavan,
New Delhi - 110011.
7. Sri M. Vasudeva Rao,
Advocate (CCEASO),
High Court Building,
Bangalore - 1.

Subject: SENDING COPIES OF ORDER PASSED BY THE BENCH

Please find enclosed herewith the copy of ORDER/~~STAY~~/

~~INTERIM ORDER~~ passed by this Tribunal in the above said application
on 10 Nov 87.

RECEIVED

Jan's 17/11/87

Diary No. 1426/02/10

Date: 18/11/87

Encl: as above.

DEPUTY REGISTRAR
(JUDICIAL)

CENTRAL ADMINISTRATIVE TRIBUNAL

BANGALORE

DATED THIS THE 10TH DAY OF NOVEMBER, 1987

Present: Hon'ble Shri P. Srinivasan, Member (A)

APPLICATION NO. 831/1987

Sri. T. Suryanarayana,
Accounts Officer,
O/o the Deputy Director
of Accounts (Postal),
Karnataka Circle,
Bangalore.

.... Applicant

(Shri Dr. Nagaraja, Advocate)

v.

1. The Dy. Director of Accounts (Postal),
Bangalore.
2. The Executive Engineer,
CPWD, Bangalore Control Division-I,
Infantry Road,
Bangalore.
3. The Superintending Engineer,
CPWD, 55/35, 11 Main Road,
Vyalikaval,
Bangalore.
4. The Director of Estates,
Government of India,
New Delhi.

.... Respondents.

(Shri M. Vasudeva Rao, CGASC).

This application having come up for hearing to-day,
Shri P. Srinivasan, Hon'ble Member (A) made the following:

ORDER

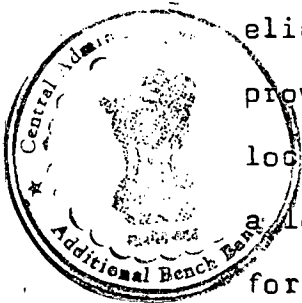
In this application the applicant who was working as a Junior Accounts Officer in the Postal Department at Bangalore till 30.4.1984 when he was relieved on promotion and transfer to Shillong, complains that the Respondents have wrongly charged rent for the quarters allotted to him at Bangalore and retained by him after his relief till June 1986 at a much



P. Srinivasan

higher rate than they should have and that as a result the respondents have wrongly sought to recover from him over Rs.6,000 towards such arrears.

2. Dr. M.S. Nagaraja appearing for the applicant submitted that though the applicant was relieved at Bangalore on 30.4.1984, to proceed on promotion and transfer to Shillong, he was entitled to retain the Government accommodation allotted to him at Bangalore during the period of his stay at Shillong in terms of the Ministry of Works and Housing Memo No.12035(21)/77-POL.II dated 15.2.1984 (Annexure A-1). Under the terms of this Memo, this applicant had to request for retention of accommodation at Bangalore within one month of relinquishment of charge at Bangalore. He relinquished charge at Bangalore on 30.4.1984 and applied for retention of the quarter at Bangalore on 22.5.1984 and his request in this regard was forwarded to the Director of Estates, New Delhi, by an endorsement dated 23.5.1984 of the Post Master General, Shillong. He had thus fulfilled the condition required of him that he should have applied for retention of accommodation within one month of his relief from Bangalore. Under the same Memo he was eligible for allotment of the next below type of quarter provided that such accommodation was in the same or nearby locality. Respondent 4 viz. the Director of Estates took a long time to take a decision on the applicant's request for retention of accommodation and it was only on 23.2.1986 that Respondent 4 passed an order ^{by allotting} ~~and allotted~~ a lower type of quarter 20 kilometres away from the quarter being occupied



P. J. B.

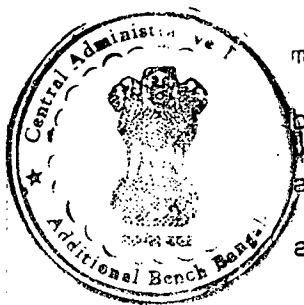
by the applicant. The applicant thereupon represented that it would be difficult for his wife who was staying behind at Bangalore to shift to the new quarter and requested that he be allowed to retain the same old quarter. Subsequently he sought extension of time for him to vacate the old quarter and to occupy the new quarter till he could himself come to Bangalore to do so but even that was rejected. Ultimately the applicant's family was evicted from the quarter in June 1936.

Dr. Nagaraja submitted that at least till 28.2.1936, the date on which the applicant was allotted a lower type of quarter, Respondents were not justified in charging double rent or market rent because it was no fault of the applicant that he continued in the old accommodation till then. After the allotment of a lower type quarter on 28.2.1936 the Respondents should have continued to charge normal rent for two more months and after the expiry of two months they could have charged double rent.

3. Shri M. Vasudeva Rao appearing on behalf of the Respondents submits that the respondents had charged normal rent for the quarter from the applicant for two months after 30.4.1984 when the applicant was relieved, double rent for six months following and market rent for the remaining period which was according to the rules. There was nothing to show that the applicant applied for retention of accommodation within one month of his relief from Bangalore and so he cannot claim that he should be charged normal rent till the date of allotment of a lower type of quarter in February, 1986.

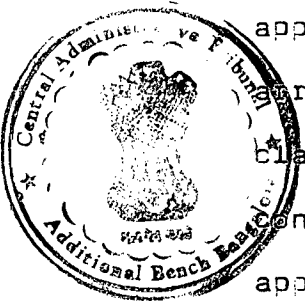


4. Having heard counsel on both sides I feel that the Respondents have indeed been somewhat harsh. The applicant states in his application that after relinquishing charge at Bangalore on 30.4.1984 and joining at Shillong on 19.5.1984 he made a request on 22.5.1984 for retention of quarter at Bangalore and this request had been forwarded by his superior, the PMG, Shillong, to the Director of Estates on 23.5.1984. This is not contradicted in the reply filed on behalf of the Respondents, nor was Sri Vasudeva Rao able to show that this statement is incorrect. I have, therefore, to proceed on the assumption that the applicant did indeed make the request within one month of relinquishing charge at Bangalore. Thereafter it was for the respondents, particularly Respondent 4 to act with alacrity and allot the next below type quarter to the applicant in terms of Ministry of Works and Housing Memo dated 15.2.1984. The correspondence on the subject attached to the application shows that for the first time by letter dated 8.1.1985 the Central Public Works Department representing the Directorate of Estate wrote to the applicant that he should vacate the quarter being occupied by him without making any reference to the request said to have been made by the applicant to retain the same quarter. However, in a subsequent letter dated 11.10.1985 the CPWD at Bangalore asked the applicant to send a proforma application for a quarter one type below. It appears ^{that} on 6.9.1985 itself, CPWD had written to the applicant to fill in and submit the proforma application and the letter dated 11.10.1985 was only a reminder. As against this a copy of the letter



dated 17.1.1985 addressed by the applicant to the Director of Estates shows that with that letter itself he enclosed an application in the prescribed proforma and endorsed a copy of the same letter to the Superintending Engineer, Bangalore. The Respondents did not take any action either on the applicant's first application made in May 1984 for retaining his old accommodation or the subsequent application in the prescribed proforma made in January 1985. In the light of this I think it was not fair on the part of the respondents to charge double or market rent for any period upto 23.2.1986 when a quarter of a lower type was allotted to the applicant, the delay being entirely due to the respondents. After 28.2.1986 also the applicant should have been given a reasonable time, say one month, for vacating the old quarter and occupying the new quarter allotted to him and for this period also he should have been charged only normal rent. After 31.3.1986 Respondents were however, free to charge higher rent according to the rules till the date the applicant left the quarter.

5. The statement of arrears of rent to be recovered from the applicant also shows that some arrears were being demanded from the applicant for the period upto 30.4.1984 when the applicant was still working in Bangalore and some of the arrears relate to as far as back as 1974-75. So far as the claim of arrears for the period 1974-75 to 30.4.1984 are concerned it is only fair that the respondents give the applicant an opportunity to explain his case before effecting any recovery.



P. J. [Signature]

6. In the light of the above I pass the following order:-

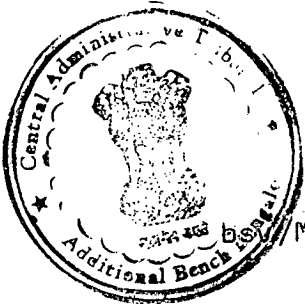
- (i) For the period 1.5.1984 to 31.3.1986 Respondents will charge only normal rent for the quarter at Bangalore retained by the applicant after his relief at Bangalore.
- (ii) So far as the claim of arrears of rent for the period prior to 1.5.1984 is concerned the Respondents will give the applicant an opportunity of being heard before finally determining the amount due and recovering it from him;
- (iii) So far as the period from 1.4.1986 is concerned the Respondents may charge higher rent as they deem fit in accordance with rules.

7. In the result the application is allowed in part. Parties to bear their own costs.

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MEMBER (A)

-True copy-



Mrv.

[Signature]
DEPUTY REGISTRAR
CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH
BANGALORE