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CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH.

Original Application No. 485/92

~~Transfer Application No.~~

Date of decision 7.7.93

Shri M.S. Kamble Petitioner
Shri C.K. Chhatre
Shri Q.M. Bhilwade
Shri S. Pillai Advocate for the Petitioner

Versus

Union of India and others Respondent

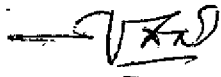
Shri J.G. Sawant Advocate for the Respondent(s)

Coram :

The Hon'ble Shri V.D. Deshmukh, Member (J)

The Hon'ble Shri

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


(V.D. DESHMUKH)
MEMBER (J)

CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

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Original Application No. 485/92

Shri M.S. Kamble

Shri C.K. Chhatre

Shri Q.M. Bhilawade

...Applicants.

V/s.

Union of India through
General Manager,
Central Railway,
Bombay V.T.
Bombay

The Divisional Railway Manager
(Works, Bombay Division
Bombay V.T.
Central Railway,
Bombay.

Financial Advisor &
Chief Accounts Officer,
Central Railway
Bombay.

The Chief Engineer,
Central Railway,
Bombay V.T.
Bombay.

...Respondents.

CORAM: Hon'ble Shri V.D.Deshmukh, Member (J)

Appearance :

Shri S.Pillai, counsel
for the applicant.

Shri J.G. Sawant, counsel
for the respondents.

ORAL JUDGEMENT

Dated: 7.7.93

¶ Per Shri V.D.Deshmukh, Member (J) ¶

The applicants in the present case are all employees of the Central Railway and the applicant No. 1 is residing in quarter No. H-237/PR, the applicant No.2 in quarter No. H -238/PR and the applicant No. 3 in quarter No. H -240/PR, all situated in Station Masters Chawl, Parel, Bombay. The respective dates of allotment of these quarters are: applicant No. 1 - 23.8.75, applicant No - 2 - 3.6.84 and applicant No.3 - 1.8.78.

These quarters were classified as Ex.GIP "G" type quarters and the rent was being recovered on that basis. The applicants made representations that it was necessary to re-classify these quarters as "H" type quarters. The applicants relied upon the letter from the Chief Engineers's Office, Bombay VT dated 29.8.91 (Exhibit A-1). By this letter it was pointed out that out of 24 units in the Establishment 7 units of "G" type quarters were re-classified as "H" type quarters under the letter dated 26.11.70, and 2 units were re-classified as "J" type quarters under letter dated 20.6.88. This letter itself shows that re-classification of "G" type quarters G- 233, G-237, G-238, G-240 and G-241 which included the quarters which are now in occupation of the applicants was turned down by the letter dated 15/16.11.73. It is not necessary to refer to the various facts which are mentioned in these letters, but after taking into consideration those facts the Chief Engineer found that it was not proper to recover the standard rent ^{for} from "G" type quarter from the occupants of the above mentioned quarters and he recommended that "G" type quarters bearing No. G- 233, G-237, G-238, G-240 and G-241 may be de-categorised as "H" type quarters.

The Head quarters Office , Bombay V.T. under the letter dated 14.10.91 re-classified the above said quarters to "H" category. His order also mentioned the date of sanction of the Chief Engineer as 11.10.91. The net result of the order was that the quarters in occupation of the ^{applicants} ~~candidates~~ alongwith the other quarters mentioned in the order stood re-classified to "H" category with effect from 11.10.91.

The applicants in the present case claim that the re-classification should have been done with retrospective effect from the date on which the quarters were allotted to the respective applicants and the respondents be directed to refund the amount recovered towards the licence fee in excess of licence fee applicable to "H" type quarters from the date of their occupation upto 11.10.91. Exhibit A-1, the letter of the Chief Engineer dated 29.8.91 shows that the quarters similar in all respects to the quarters in dispute were re-classified as "H" type quarters since as early as 26.11.70. There is absolutely nothing to show as to why the quarters in dispute which are in occupation ~~by~~ ^{of} the applicants were not re-classified at the same time or in the near future thereafter. These quarters came to re-classified as "H" type only on 29.8.91. The re-classification came into effect from the date of sanction of the Chief Engineer which is mentioned as 11.10.91 in Exhibit A 2.

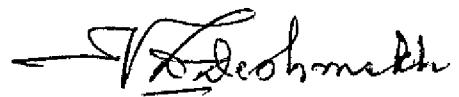
The respondents rely upon para 809 for Code for Accounts Department Part -I (Revised Edition)1984. The said para lays down that all sanctions take effect from the date of issue unless a different date is given in the order of communication of the sanction. In the present case the sanction was issued under the order dated 14.10.91 and it mentioned the date of issue as 11.10.91. However the written statement does not show any basis on which this date was given as the date of issue. In fact as has been stated earlier the quarters should have been re-classified to "H" type quarters as early as in 1970. In these circumstances the applicants are entitled to relief but they would not be entitled to relief from the

date of their occupation. The applicant No.1 was allotted the quarter as early as in August 1975, Applicant No.2 in January 1984, and Applicant No.3 in August 1978, but there is nothing to show that they approached any appropriate forum pressing their claim of re-classification of the quarters. The cause of action for re-classification of the quarters had arisen in their favour on the respective dates of allotment, but they did not approach the appropriate forum before the constitution of this Tribunal or before this Tribunal immediately after its constitution. As the decision was taken by the respondents on 14.10.91 the application cannot be held to be barred by limitation but relief will have to be restricted to a period of one year immediately preceeding the date on which the application was filed as is done in such cases.

In view of the reasons discussed above I pass the following order.

The application is allowed and the respondents are directed to reimburse the amount recovered from the applicants towards licence fees in excess of that applicable to "H" type quarters during the period from 1.5.91 to 11.10.91. This order shall be complied with within a period of three months from the date of receipt of copy of this order.

There shall be no order as to costs.


(V.D. DESHMUKH)
MEMBER (J)

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