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CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

Original application No: 625/92

Transfer Application No:

DATE OF DECISION 7.7.93

Shri Arjun G. Made Petitioner

Shri S.P. Kulkarni, Advocate for the Petitioners

Versus

Union of India and others Respondent

Shri P.M. Pradhan, Advocate for the Respondent(s)

CORAM:

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

The Hon'ble Shri

1. Whether 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?
4. Whether it needs to be circulated to other Benches of the Tribunal?

{ up.



(V.D. DESHMUKH)
MEMBER (J)

(7)

CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

Original Application No. 625/92

Shri Arjun G. Made

... Applicant

V/s.

Union of India through
The Chief Postmaster General
Maharashtra Circle,
GPO Building.
Bombay.

The Director of Postal
Services (North)
Office of the CPMG,
Maharashtra State,
GPO Building.
Bombay .

Sr. Superintendent of
Post Offices,
Bombay City North East,
Bhandup (East), Bombay.

Sr. Superintendent of
Post offices,
Bombay City, East,
Division Dadar
Post Office Building,
Bombay.

The Estate Officer
Office of C.P.M.G.,
Maharashtra Circle,
Bombay.

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

Appearance:

Shri S.P. Kulkarni, counsel
for the applicant.

Shri P.M. Pradhan, counsel
for the respondents.

ORAL JUDGEMENT

Dated: 7.7.93

The applicant was posted as Sub-Post Master Matunga Post Office on 23.4.88 and he occupied the residential quarter attached to the said post office from the same date. The Director of Postal Services (N) visited the Matunga post office on 11.2.92 and alleged noticed certain irregularities. Even before this visit the applicant was transferred to Kalyan on 19.12.91 and as per rule he could retain the quarters upto 18.2.92. The visit note of 11.2.92 also mentioned that the Director Postal Services (N)



had issued instructions to the applicant to vacate the quarter attached to Matunga Post office by 18.2.92.

The applicant made a representation as against his transfer to Kalyan which was considered and by modification of the order the applicant was transferred on 4.2.92 to the Post office at V.J.B. Udyan P.O. , Bombay 27. It is not in dispute that there is a residential quarter attached to VJB Udyan Post Office. The applicant was entitled to occupy the quarter attached to the said post office but when he took over the charge he noticed that the incumbent working in VJB Udyan Post office had not vacated the quarter. The applicant joined the said post office as Sub Post Master on 7.2.92, but he could not take possession of the quarter which is attached to the said post office.

The applicant in the above circumstances ~~continued~~ to occupy the quarter attached to Matunga Post office till 14.4.92, when he vacated the quarter and occupied the quarter attached to VJB Udyan Post office. The applicant was served with the letter dated 13.2.92 informing him that he should vacate the ~~said~~ quarter attached to Magunga Post office or otherwise disciplinary action will be taken against him and penal rent will be recovered from him. The applicant informed the Sr. Superintendent of Post Offices , Bombay City, N/E Division, Bhandup on 15.2.92 that he could not vacate the quarter at Matunga post office as the residential quarters attached to VJB Udyan Post Office were not vacated by the incumbent Shri Bhandarkar. He had earlier informed this position by his representation dated 13.2.92 to Shri A.V.B. Menon, PMG Head quarter Bombay GPO. The applicant admittedly vacated the quarter attached to Matunga post office

with effect from 14.4.92.

The respondents by the impugned order dated 20.3.92 directed that the damage rent of Rs. 2791.60 per month with effect from 19.2.92 be recovered from the applicant. The applicant challenges this order in the present application. It is stated that a sum of Rs. 500/- was recovered under this order but no further recovery was made as stay was granted by this Tribunal.

It is an admitted position that under relevant rules the residential quarters are attached to the post offices and ordinarily the Post Master is entitled to occupy this quarter. It is also an admitted position that these quarters are occupied by concerned Post Masters rent free. The circumstances in the present case show that although the applicant was transferred to Kalyan on 19.12.91 he could retain the quarter at Matunga till 18.2.92. Before he joined the post at Kalyan, on his representation he was transferred to VJB Udyan post office on 4.2.92 in supersession of the earlier transfer order. He had joined the said post office but as the facts discussed above show he could not occupy the quarter attached to VJB Udyan Post office till 14.4.92. The rule that the quarter must be vacated immediately on transfer did equally apply to Shri Bhandarkar who was occupying the quarter at VJB Udyan Post office. The applicant had become entitled to occupy this quarter on 4.4.92 i.e. before the period of two months which was permitted to him had expired, as that period expired as per note dated 11.2.92 itself on 18.2.92. In these circumstances the respondents could not recover the damage rent from the applicant and the impugned order is liable to be quashed.

JKP

As I am allowing the application on this short ground, it is not necessary to refer to the other contentions, such as that the damage rent could not be directed without taking recourse to the provisions of Public Premises (Eviction of Unauthorised Occupants) Act 1971. No doubt the applicant continued to occupy the quarter attached to the post office at Matunga and he will have to pay the charges, however the charges shall be as per the rules and regulations in force.

In view of the above discussion, the application is allowed. The impugned order dated 20.3.92 charging the damage rent to the applicant is quashed. However the respondents shall be at liberty to charge the rent to the applicant as per rules and regulations for the period from 18.2.92 to 14.4.92. The respondents shall adjust the sum of Rs. 500/- towards the rent which may be payable by the applicant as per this order.

There shall be no order as to costs.


(V.D. DESHMUKH)
MEMBER (J)

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