

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

Second Floor,
Commercial Complex,
Indiranagar,
Bangalore-560038.

Dated 27 SEP 1993

APPLICATION NO(S) 84 of 1993.

APPLICANTS: Smt. Mallika v/s. RESPONDENTS: Senior Superintendent of
Post Offices, Mangalore and Others.

TO.

1. Sri.A.R.Holla, Advocate, No.3, Second Floor,
Sujatha Complex, First Cross, Gandhinagar,
Bangalore-560 009.
2. The Senior Superintendent of Post Offices,
Mangalore Division, Mangalore-575002.
3. The Chief Post Master General,
Karnataka Circle, Bangalore-560001.
4. Sri.M.S.Padmarajaiah, Central Govt. Stng. Counsel,
High Court Building, Bangalore-560001.

Subject:- Forwarding of copies of the Order passed by
the Central Administrative Tribunal, Bangalore.

Please find enclosed herewith a copy of the
ORDER/STAY/INTERIM ORDER, passed by this Tribunal in the
above said application(s) on 21st September, 1993.

Issued

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for *n. d. s.*
DEPUTY REGISTRAR
JUDICIAL BRANCHES.

27/9/93

CENTRAL ADMINISTRATIVE TRIBUNAL: BANGALORE

DATED THIS THE 21ST DAY OF SEPTEMBER, 1993.

PRESENT:

Hon'ble Mr. Justice P.K. Shyamsundar,

.. Vice-Chairman.

And

Hon'ble Mr. V. Ramakrishnan,

.. Member(A)

APPLICATION NUMBER 84 OF 1993

Smt. Mallika,
W/o late H.M. Sherigar,
Aged 45 years, residing at
Stevens Villa,
Jeppinamogaru, Thandalige,
Mangalore-575 009.

.. Applicant.

(By Sri A.R. Holla, Advocate)

v.

1. Senior Superintendent of Post Offices,
Mangalore Division, Mangalore-575 002.

2. Chief Post Master General,
Karnataka Circle, Bangalore-560 001.

.. Respondents.

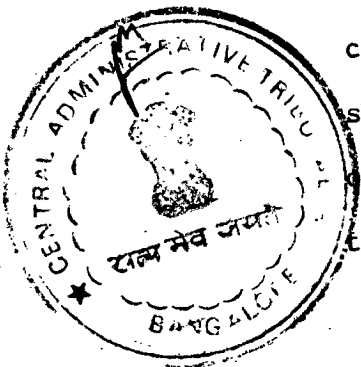
(By Sri M.S. Padmarajaiah, Standing Counsel)

This application having come up for hearing on admission to-day, Hon'ble Vice-Chairman made the following:-

ORDER

The applicant is the widow of a deceased postman who had the advantage of staying in the official quarter that was allotted to her husband while in service. Her husband joined the department in the year 1970. We are told that he and the members of his family were in occupation of the official quarter in question from the year 1975.

2. After the husband died, the applicant and her children continued to stay in the official quarter and we are told as she was expecting one of her children to be appointed in place of the deceased father on compassionate ground, she continued to stay in the official quarter. That expectation came to be



true as one of her sons was indeed appointed on 3-1-1991. Thereafter the department got busy in evicting the applicant from the official quarter by initiating proceedings under the Public Premises (Eviction of Unauthorised Occupants) Act, 1971. At the resulting inquiry the applicant having asked the inquiring authority for permission to continue in possession of the quarter till 31-12-1991, the Estate Officer presiding over the proceedings acceded to that request and made the following order:-

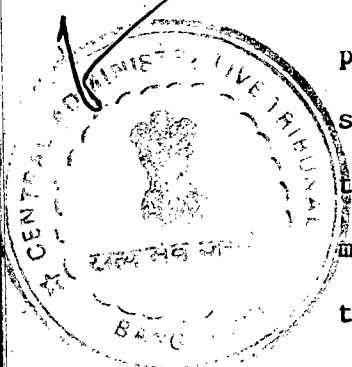
"7. Smt. Mallika requested that she would require time upto 31-12-1991 to make suitable alternate arrangements to shift from the Postal quarters and that the E.O. should not order eviction immediately. The E.O. agreed to consider the request of Smt. Mallika to vacate the quarters by 31-12-1991 subject to the usual conditions relating to the payment of rent as has been fixed by the competent authority. Accordingly the E.O. agreed to the request of Smt. Mallika to vacate the quarter by 31-12-1991."

The above order came to be passed on 15-11-1991. In terms of the undertaking before the Estate Officer, the applicant vacated the quarter on 26-1-1992 which however was not strictly in accordance with the undertaking given before the Estate Officer before whom she had agreed to vacate the quarter on 31-12-1991.

3. Be that as it may, after she vacated the premises, may be even earlier, the department started to withhold the dearness relief on pension. We are now told that it was being appropriated towards penal rent recoverable from the applicant for overstaying in the official quarter. Sri M.S. Padmarajaiah, learned Standing Counsel invites our attention to the communication addressed to the applicant some time in the month of July, 1990 telling her that further continuance in the official quarter would entail payment of penal rent. Presently the grievance of the applicant is that the department should be directed

not to withhold dearness relief on pension and whatever withheld so far should be repatriated to her.

4. We have heard both sides on this solitary issue arising herein and find that in terms of the order of the Estate Officer in the proceedings under the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 as noted in Annexure-A2, the applicant was allowed to continue in the official quarter till 31-12-1991 subject to payment of such rent as may be fixed by the competent authority. Admittedly after the Estate Officer passed the order under Annexure-A2, no competent authority had fixed the rent payable for the official quarter by the applicant. However, the learned Standing Counsel places, as mentioned earlier, reliance on the earlier communication in July, 1990 which carried a threat of recovery of penal rent if the applicant did not vacate the premises at once. It seems to us the authorities cannot avail the same as in terms of the order of the Estate Officer under Annexure-A2 rent recoverable from the applicant had to be fixed de novo by the competent authority and on that basis a demand made from the applicant for payment. Apparently this step not having been taken, the recovery of dearness relief payable on pension should not have been resorted to. But, the department has withheld payment of substantial amount of dearness relief on pension from February, 1992 to January, 1993, according to information supplied in the counter statement. In view of this all that we should do is to direct the department that the amount withheld till now be kept in abeyance but to go on paying dearness relief on pension as they have been doing pursuant to the interim order made by this Tribunal on 22-1-1993, till the competent authority fixes the rent payable to the premises occupied hitherto by the applicant. Whoever is the competent authority will, before passing any order in regard to the



quantum of rent payable by the applicant give the applicant an opportunity of being heard in the matter and thereafter pass appropriate orders thereon.

5. In the result, we dispose off this application finally by directing the department to continue to pay the dearness relief on pension along with the basic pension till the competent authority fixes the appropriate rent payable by the applicant for use of the official quarter. The amount already withheld by the department so far will be liable to be adjusted towards the rent to be fixed hereafter by the competent authority.

Send a copy of this order to the department expeditiously.

Sd-

MEMBER(A)

Sd-

VICE-CHAIRMAN.



TRUE COPY

M. D. S.

29/9/93

SECTION OFFICER
CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH
BANGALORE