

CENTRAL ADMINISTRATIVE TRIBUNAL  
BANGALORE BENCH

Second Floor,  
Commercial Complex,  
Indiranagar,  
BANGALORE - 560 033.

Dated: **17 MAR 1995**

APPLICATION NO. 1161 of 1994.

APPLICANTS: **Sri.G.Thothathiri, Bangalore.**

V/s.

RESPONDENTS: **The Estate Officer, CPWD, Bangalore and another.**

To

1. **Dr.M.S.Nagaraja, Advocate,  
No.11, 2nd Floor, 1st Cross,  
Sujatha Complex, Gandhinagar,  
Bangalore-560009.**
2. **Sri.M.S.Padmarajaiah, Senior  
Central Govt.Stng.Counsel,  
High Court Bldg, Bangalore-1.**

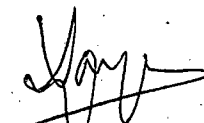
Subject:- **Forwarding copies of the Orders passed by the  
Central Administrative Tribunal, Bangalore-38.**

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Please find enclosed herewith a copy of the Order/  
Stay Order/Interim Order, passed by this Tribunal in the above  
mentioned application(s) on 13th March, 1995.

Issued on  
17/03/95

o/c

  
DEPUTY REGISTRAR  
JUDICIAL BRANCHES.

CENTRAL ADMINISTRATIVE TRIBUNAL,  
BANGALORE BENCH.

ORIGINAL APPLICATION NO. 1161/ 1994

MONDAY, THE 13TH DAY OF MARCH, 1995

SHRI V. RAMAKRISHNAN

...

MEMBER (A)

SHRI A.N. VUJJANARADHYA

...

MEMBER (J).

Shri G. Thothathiri,  
Aged about 57 years,  
S/o M. Ganghadharan,  
Residing at No.1, Y Block,  
CPWD Quarters,  
Bangalore - 560 040.  
Working as Group 'A' Officer (Director),  
Geological Survey of India,  
AMSE Wing,  
No.2, Church Street,  
Bangalore - 560 002.

...

Applicant

(By Advocate, Dr. M.S. Nagaraja )

Vs.

1. The Estate Officer/  
Executive Engineer,  
CPWD, BCDI, Koramangala,  
Bangalore - 560 034.
2. Union of India,  
Represented by  
Secretary to Government,  
Ministry of Urban Development,  
Nirman Bhavan,  
New Delhi.

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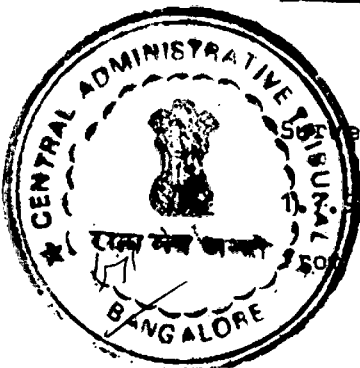
Respondents

(By Senior Standing Counsel for Central  
Govt., Shri M.S. Padmarajaiah )

ORDER

Shri V. Ramakrishnan, Member (A)

The applicant who is a Group 'A' officer of the Geological Survey of India has by this application challenged the order dated 1.7.94 passed by the Estate Officer, Bangalore seeking to evict him from Government Quarters as at Annexure A-6.



2. The applicant was transferred from Bangalore to Shillong in December, 1992. After getting transfer orders, he went to Shillong but retained the quarters which had earlier been allotted to him at Bangalore which he claims he is entitled to retain on transfer to the North-East in terms of instructions of Govt. of India. The Government had extended certain concessions to Government officials who are posted to north-eastern region and one of the concessions relate to retention of accommodation/ allotment of alternative accommodation for the bonafide use of members of his family in the previous station of posting before such transfer. These orders provide for allotment of accommodation of one type below the entitled accommodation. The applicant was entitled to Type V-B accommodation whereas he was actually occupying Type V-A accommodation in Bangalore. The Department took the view that as in Bangalore Type-V quarters had not been classified as Type V-A and Type V-B, he should shift to the Type-IV accommodation which according to them is the type to which he would be entitled on his transfer to the North-East. They accordingly allotted Type-IV quarters which the applicant did not accept but continued to occupy the Type-V quarters. The Estate Officer then issued an order dated 29.12.93 under Section 5 of the Public Premises (Eviction of Unauthorised Occupants Act) 1971. The applicant moved the Tribunal by OA No. 189/94 challenging this order of the Estate Officer dated 29.12.93 where he had urged a number of grounds. This OA was disposed of by this Tribunal by an order dated 28.3.94 where the eviction order dated 29.12.93 was quashed for the simple reason that the department had not followed the prescribed procedure as laid down under the Public Premises (Eviction of Unauthorised Occupants) Act

but giving liberty to the Estate Officer to hold a fresh enquiry as per law giving opportunity to the applicant and to dispose of the same afresh. In the meantime, the applicant was transferred back to Bangalore from Shillong and he rejoined at Bangalore on 30.5.94. The Estate Officer had then issued a show cause notice as per the communication dated 12.4.94 and also gave a personal hearing to the applicant. The applicant submitted before the Estate Officer that as he had been posted back to Bangalore, he should be allowed to retain the Type-V quarters which was under his occupation. The Estate Officer did not accept this contention and issued an order dated 1.7.94 as at Annexure A-6 ordering the applicant to vacate the quarters within 30 days of the date of publication of this order. It may also be mentioned here that the applicant had represented to higher authorities including the Minister for Urban Development, Government of India for retention of the Type-V Quarters in Bangalore. Aggrieved by this eviction order, the applicant in August, 1994 has filed the present application, where he has prayed for quashing the eviction order as at Annexure A-6 and for a direction that the Estate Officer should permit him to continue in the same quarters.

3. We have heard Dr. M.S. Nagaraja for the applicant and Shri M.S. Padmarajaiah for the respondents.

4. Dr. Nagaraja submits that the Estate Officer had not been objective in dealing with this case. He refers in this connection to certain remarks as contained in the order dated 1.7.94 as at Annexure

5. These have been referred to in para 5 of the application which furnish the grounds in support of the application, in particular para



5(8). We are surprised at the language used by the Estates Officer in his communication when he professes to be discharging quasi-judicial functions. It was incumbent on his part to have shown greater objectivity. It is equally important for him to be seen to be objective and without any bias. He should have exercised greater restraint and should have been more judicious in his approach and chosen his words with greater care. We express our displeasure about the language used by him and trust that he will be more careful in future.

5. Dr. Nagaraja makes available to us a letter from the Govt. of India, Directorate of Estates addressed to the Superintending Engineer, CPWD, Bangalore with a copy endorsed to the applicant. We may extract this letter dated 15.9.94 as below:

" No. D-11024/7/94-Regions  
Government of India,  
Directorate of Estates

New Delhi, the 15.9.94

To

The Superintending Engineer,  
Bangalore Central Circle-I,  
CPWD, 55/35,  
IInd Main Road,  
Vyalikaval,  
Bangalore - 560 006.

Subject:- Regularisation of Flat No. Y-I (Type-V), CPWD Quarters  
Vijay Nagar, Bangalore in the name of Shri G. Thothathiri.

Sir,

I am directed to refer to your letter No. 1(8)/94/ECC/Estates/867 dated 1.6.94 on the subject cited above and to say that it has been decided with the approval of UDM that flat No. Y-1 (Type-V) may be regularised in the name of Shri Thothathiri w.e.f. the date of his reposting to Bangalore subject to the condition that he will pay damages for the period of overstay.

Shri Thothathiri may be informed accordingly.

Yours faithfully,

Sd/-

( Darshan Lal )  
Asstt. Director of Estates(R)

...5/-

Copy to Shri G. Thethathiri, Director, Geodata Division, AMSE Wing,  
Geological Survey of India, 2, Church Street, Bangalore-  
560 001.

Sd/-

( Darshan Lal )  
Asstt. Director of Estates "

A copy of this letter is taken on record and a copy was also furnished to the department by the applicant. This letter specifically directs that the Type-V quarters under occupation by the applicant should be regularised in his name with effect from the date of his re-posting to Bangalore, subject to the contention that he pays damages for the period of over stay. As such, Shri Padmarajaiah now tells us that the Estate Officer will be issuing orders regularising the quarters No. Y-1 Vijaya Nagar, Bangalore with effect from 30.5.94 in favour of the applicant but the applicant will have to pay damages for the period of overstay as may be calculated by the department. In view of this, the eviction order dated 1.7.94 as at Annexure A-6 which has been challenged, which inter alia states that the applicant should have applied for Type-V quarters afresh and taken his turn on his re-posting at Bangalore no longer holds good and should not be acted upon. The Estate Officer, Bangalore should implement the directions of the Directorate of Estates, Government of India, New Delhi, as contained in letter dated 15.9.94 referred to supra. We accordingly quash the order dated 1.7.94 as at Annexure A-6.

6. Dr. Nagaraja, at this stage, submits that the applicant has not been able to understand fully the implications of the stipulation that he has to pay damages for the period of overstay and he may be

...6/-

given liberty to challenge any step taken by the department in this regard, if he is aggrieved. If the applicant is aggrieved by the action of the department with regard to levying of damages, he is at liberty to take appropriate action according to law.

7. With the above observations, the present application is disposed of. No costs.

Sd/-

Sd/-

11/13/3/95  
( A.N. VUJJANARADHYA )  
MEMBER (J)

( V. RAMAKRISHNAN )  
MEMBER (A)

TCV



TRUE COPY

*[Signature]*  
Section Officer  
Central Administrative Tribunal  
Bangalore Bench  
Bangalore