

CENTRAL ADMINISTRATIVE TRIBUNAL

BANGALORE BENCH

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

Dated: **30 MAR 1995**

APPLICATION NO. 240 of 1995.

APPLICANTS: Sri.M.Gundu Rao, Arsikere-573103.

V/s.

RESPONDENTS: The Post Master General, S.K.Region,
Bangalore, and another.

To

1. Sri.A.R.Holla, Advocate, No.3, Second Floor,
Sujatha complex, First Cross, Gandhinagar,
BANGALORE - 560 009.
2. Sri.G.Shanthappa, Additional Central Govt.
Standing Counsel, High Court Building,
BANGALORE - 560 001.

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 17-03-1995.

Issued on
30/03/95
gk

gk

DEPUTY REGISTRAR
JUDICIAL BRANCHES.

gm*

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH, BANGALORE

ORIGINAL APPLICATION NO.240/1995

FRIDAY THE SEVENTEENTH DAY OF MARCH, 1995

MR. V. RAMAKRISHNAN

MEMBER (A)

MR. A.N. VUJJANARADHAYA

MEMBER (J)

Shri M. Gundu Rao,
aged 54 years,
Retired LSG SA,
Residing at Opp;
Gopalsingh Quarters,
B.H. Road,
Arsikere - 573 103

Applicant

(By Advocate Shri A.R. Holla)

v.

1. Post Master General,
S.K. Region,
Bangalore - 560 001
2. Superintendent R.M.S.,
'Q', Division,
Bangalore - 560 026

Respondents

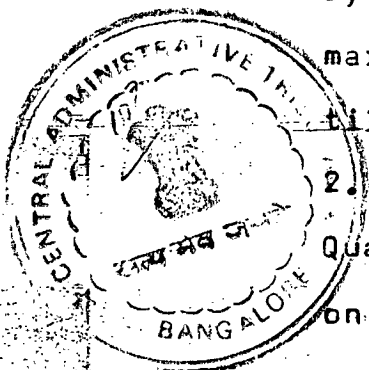
(By learned Standing Counsel)
Shri G. Shanthappa

ORDER

MR.V. RAMAKRISHNAN, MEMBER (A)

The applicant herein who retired as a
Sorting Assistant in the Postal Department,
Arsikere after taking retirement on invalid
pension on account of his blindness is aggrieved
by the action of the Department seeking to recover
market rent for the P&T quarters occupied by him
till its vacation on 11.11.93.

2. The applicant was in occupation of Type III
Quarters at Arsikere at the time of his retirement
on 17.6.92 and he was permitted by the Department



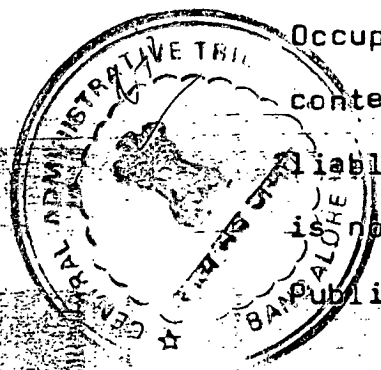
to retain it upto 16.12.92. As he had been invalidated, he made a request for giving a compassionate appointment to his son and also requested the Department to allow him to retain the quarters till such time his son get the appointment and the quarters is allotted in his son's favour. The Department, however, did not agree and by their order dated 8.4.93 directed the applicant to vacate the quarters immediately and not later than 18.4.93 positively. This order directed him to clear all due rent and water charges upto ~~the~~ date. His son got the compassionate appointment later but the quarters in question was not allotted in his son's favour and the applicant was again informed on 1.11.93 to vacate the quarters forthwith which he did on 11.11.93. The Department meanwhile called upon him to pay a sum of Rs.15,509/- as market rent for the period from 17.12.92 to 11.11.93 during which period they treated him as being in unauthorised occupation of the quarters. The market rent was calculated at the rate of Rs.40/- per sq.mt. and the amount was fixed at over Rs.1,400/- per month. Aggrieved by this action, he came to the Tribunal in O.A.No.1098/92 which was disposed of on 21.10.94 where the applicant was directed to submit a fresh representation and the Department was directed to dispose it of suitably. It may also be mentioned that while O.A.No.1098/94 was being dealt with, the Department

had intimated the Tribunal that the amount due from the applicant was not Rs.15,509.05 but only Rs.8430.30. A copy of this modified demand was handed over to the applicant's counsel. In pursuance of the directions of the Tribunal, the applicant had submitted a representation which, however, was rejected by the Department. The Department by their order dated 5.1.95 as at Annexure A-4 now took the plea that the sum due from the applicant was not Rs.8430.30 but was Rs.15,509.05. The reasons given for this shift in the stand of the Department is that the amount of Rs.8430.30 was wrongly calculated from April, 1993, whereas market rent should have been calculated from December, 1992, itself.

Aggrieved by this order, the applicant has filed the present application.

3. We have heard Shri A.R. Holla for the applicant and Shri G. Shanthappa, learned Standing Counsel appearing on behalf of the respondents.

4. Shri Holla submits that the action of the Department is contrary to the relevant rules. He refers in this connection to instructions below FR 45-A and also SR 317(b). He contends that the Government of India decision 12 below FR 45-A would make it clear that the market rent at Rs.40/- per sq.mt. is to be charged in the case of occupants whose allotments have been cancelled and necessary eviction proceedings under the Public Premises (Eviction of Unauthorised Occupants) Act have been finalised. Shri Shanthappa contends that the damage rent as per market rate is liable to be charged from the present applicant and it is not necessary that eviction proceedings under the Public Premises (Eviction of Unauthorised



Occupants) Act should be finalised. He draws our attention to the Department of Posts letter dated 31.8.92 which is reproduced at Instruction 7 of DGP&T Instructions below FR 45(A) in 12th Edition of Swamy's Compilation of FR & SR. This decision 7(b)(3) states that even if vacation of quarters beyond the normal permissible period is to be considered, the applicant should be informed that licence fee at damage rates will be recovered from him. Shri Shanthappa submits that licence fee at damage rate at Rs.40/- per sq.mt. is chargeable even if proceedings under the Public Premises(Eviction of Unauthorised Occupants) Act have not been finalised. Shri Holla does not agree and says that these instructions should be read with instructions 5 of DGP&T Memo dated 6th August, 1965, which says that where there is overstay after cancellation of allotment, the official shall be liable to pay damages and such damage shall be equal to double the standard licence fee. Shri Holla submits that the Department is not justified in levying the exorbitant market rent as has been done.

5. We have carefully considered the submissions of both sides and we have noticed that the applicant had to take retirement because of his blindness and had gone on voluntary retirement. He had made a request well in time to continue to keep his quarters even after the extended time expired in December, 1992. The Department seems to have informed him in April, 1993, that his

request was not acceded to and he should pay all due rent and water charges. When the Department finally told him on 1.11.93 that his request for allotting the quarters to his son was not agreed to, the applicant vacated the quarters shortly thereafter i.e. on 11.11.93. We also do not know how the Department made a submission before the Tribunal while O.A.No.1098/94 was being dealt with that the applicant was liable to pay only a modified sum of Rs.8430.30. The present stand of the respondents that they had made a mistake and that they should have calculated the rent from December, 1992, lends substance to the view that the Department had not applied their mind to the plight of the applicant particularly to the disability which forced him to take retirement. They have also not explained as to how they thought of charging the market rent from April, 1993, at one stage but later on reverted back to imposing the levy from December, 1992. Keeping in view all the facts and circumstances of the case and without going into the question as to whether market rent at Rs.40/- per sq.mt. is chargeable even in the absence of finalising proceedings under the Public Premises (Eviction of Unauthorised Occupants) Act, we are of the view that ^{in the present case} it would be just and proper to direct the Department to charge the rent from the applicant at double the standard licence fee for the period from December, 1992 upto 11.11.93 when he actually

vacated the quarters. Shri Holla tells us that this has already been paid by the applicant. If that is so, the applicant has no more liability to discharge. With these observations, this application stands disposed of finally with no order as to costs.

Sd/-

MEMBER (J)

Sd/-

MEMBER (A)



TRUE COPY

Section Officer
Central Administrative Tribunal
Bangalore Bench
Bangalore