

(74)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

O.A. NO: 77/93

199

~~T.A. NO.~~

DATE OF DECISION 3.6.93

Shri V.S.Kurup

Petitioner

Shri S.Gaware

Advocate for the Petitioners

Versus

The Regional Prvident Fund
Commissioner, Bombay & M.R.

Respondent

Shri R.K.Shetty

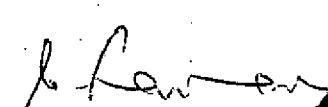
Advocate for the Respondent(s)

CORAM:

The Hon'ble ~~Mr.~~ Ms. Usha Savara, Member (A)

The Hon'ble Mr.

1. Whether Reporters of local papers may be allowed to see the Judgement ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the Judgement ? Na
4. Whether it needs to be circulated to other Benches of the Tribunal ?


(Ms. Usha Savara)
Member (A)

mbm*

(5)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH, BOMBAY

DA.NO. 77/93

Shri V.S.Kurup ... Applicant

V/S.

The Regional Provident Fund
Commissioner, Bombay & Anr. ... Respondents

CORAM: Hon'ble Member (A) Ms. Usha Savara

Appearance

Shri S.Gaware
Advocate
for the Applicant

Shri R.K.Shetty
Advocate
for the Respondents

JUDGEMENT

Dated: 3.6.93.

(PER: Ms.Usha Savara, Member (A))

The applicant is an enforcement officer working in the office of the Central Provident Fund Commissioner in Bombay. In 1978, while he was working as Head Clerk, he was allotted Quarter No. 4 in Building No. 8 at Borivili, Bombay. By order dated 23.4.1990, he was transferred to Nasik, and was transferred back to Bombay by order dated 23.4.1992 i.e. after two years. He represented to the Respondent No. 2 to allow him to retain the quarter till he was retransferred back to Bombay, or at least for a period of 6 months on normal rent. It is not denied that he was permitted to retain the quarter on normal rent for a period of six months. However, no further concession was allowed, despite repeated representations, and by letter dated 7.9.1992, he was informed that his case did not merit special consideration, and by letter dated 8.1.1993 he was asked to remit Rs.24258.13/- only for the period beyond the initial period of 6 months, being the market rent as determined by the Central Provident Fund Commissioner, New Delhi. The application has been filed against the order dated 7.9.1992

lf

(Annexure-'J') praying for a direction to the respondent No. 2 to allow the applicant to retain the quarter on normal rent from 23.4.1990 to 23.4.1992.

2. Shri Gaware, learned counsel for the applicant submitted that the applicant's transfer to Nasik was for a specified period, and as per office policy, he was entitled for retransfer to Bombay. This transfer, it is averred, was also a rotational transfer. Some officers of the same cadre had been allowed to retain their quarters on normal rent in the Delhi region, when they were transferred from Delhi Regional Office. By denying his request, the applicant's rights under Article 14 and 16 of the Constitution have been violated. It is also the applicant's case that the 2nd Respondent has the discretionary powers under Rule 24 of the E.P.F. (Allotment of Residence) Rule 1972 to grant relief to the applicant, but he had denied relief arbitrarily, whereas similar relief had been granted to his Delhi counterparts.

3. A counter has been filed on behalf of the respondents. At the outset, it is set out that the applicant is engaged in field work, and his services can be utilized in various areas depending upon administrative exigencies. It is also denied that the transfer was either rotational or for a specified period. The applicant, who was promoted in 1982 to the post of Enforcement Officer was transferred to Nasik only in 1990. As per rules, he is permitted to retain the residence for two months, but he was allowed to retain the quarter for six months on normal rent by the Central Provident Fund Commissioner, taking a sympathetic view of his request. His subsequent representations were rejected as the Commissioner did not find any special merit in them.

4. Shri R.K.Shetty, learned counsel for the respondents relied upon the judgment in OA.873/90 in the case of Shri B.S.Prasad vs. U.O.I. & Ors. delivered by the Principal Bench on 14.8.1992. It was held that the applicant, who was an Inspector, was liable to be transferred anywhere in India, and he had to vacate the Government quarter at Bombay within 2 months of his transfer. Referring to the guidelines given by letter dated 4.5.1992 by the Respondent No. 2, filed by the applicant alongwith his rejoinder, Shri Shetty submitted that the officials are rotated from one place to another after 4 years but it is not mandatory to bring back the official to the same station. Shri Shetty also submitted that the applicant was relying upon some transfers which took place in 1987, but as clarified by the Assistant Provident Fund Commissioner in his letter dated 25.3.1992, that was a one time measure resorted to for shifting out some Enforcement Officers in contiguous areas outside the State. If the applicant's prayers are accepted, it would result in permanent allotment of quarters and the administration would not be able to provide the desired relief to incoming officers on transfer.

5. I have heard both the learned counsel. It is not denied by the applicant that his services are transferable anywhere in India. From a perusal of one of the transfer orders, it is clear that there is no promise held out to the outgoing officials that they are being transferred for a specific period, or that they will be brought back to the same station. It is also not the applicant's case that he did not have to vacate the quarter within two months of his transfer. He was permitted to retain the quarter on normal rent for six months by exercise of power of relaxation under Rule 24 of the E.P.F.(Allotment of Residence) Rule, 1972. The rotational scheme is also not applicable to the field staff, and even if it were, unless a special order is passed

by the Competent Authority, no officer can retain official accommodation beyond a period of 2 months. The facts of this case are fully covered by the judgment dated 14.8.1992 in the case of Shri B.S.Prasad (Supra).

6. In the circumstances, the application must fail. However, in the interest of justice, the respondents are directed to recover the outstanding amount in suitable instalments. There is no order as to costs.

U. Savara
(MS.USHA SAVARA) 3.6.93.
MEMBER (A)

mrj.