

CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

Original Application No. 1383/95

Transfer Application No.

Date of Decision 21.3.96

D.B. Somani

Petitioner/s

Shri S.P.Kulkarni

Advocate for
the Petitioners

Versus

Union of India and others

Respondent/s

Shri S.S.Karkera.

Advocate for
the Respondents

CORAM :

Hon'ble Shri. V.Ramakrishnan, Member (A)

Hon'ble Shri.

(1) To be referred to the Reporter or not ? *no*

(2) Whether it needs to be circulated to
other Benches of the Tribunal ? *no*

[Signature]
(V. Ramakrishnan)
Member (A)

NS

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH 'GULESTAN' BUILDING NO.6
PRESCOT ROAD, BOMBAY : 1.

Original Application No. 1383/95

Thursday the 21st day of March 1996

CORAM: Hon'ble Shri V. Ramakrishnan, Member (A)

D.B. Somani

... Applicant.

By Advocate Shri S.P. Kulkarni

V/s.

Union of India through
Postmaster General
Pune Region, Near C.T.O.
Pune.

Estate Officer,
Office of the P.M.G.
Pune Region, Pune.

Estate Officer
Office of the
Chief Postmaster General
Maharashtra Circle
Bombay GPO Building
Bombay.

... Respondents.

By Advocate Shri S.S. Karkera.

ORDER (ORAL)

¶ Per Shri V. Ramakrishnan, Member (A) ¶

M.P. 842/95 for condonation of delay is .
allowed.

2. The applicant was transferred from Pune to Karad and was relieved from Pune on 23.7.90. He retained the quarter at Pune till 7.9.91. On transfer from Pune the applicant made representation to the competent authority for retention of official accommodation and after consideration, formal permission

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was granted to him upto 26.3.91 which includes six months extension beyond the limit of normal two months admissible in the case of transfer. Further the authorities had asked him to pay damage rent at the rate of Rs. 20/- per square metre from 26.3.91 to 31.3.91 and Rs. 40/- per square metre from 1.4.91 to 7.9.91. The applicant has approached this Tribunal earlier in O.A. 46/95 which came to be decided on 22.2.94 wherein the Tribunal noted that the action taken by the department was not correct in as much as no notice required under Section 7(3) of the Public Premises (Eviction of Unauthorised Occupants) Act was given to him. Subsequently the department has rectified this on 17.6.94 (Exhibit A) and he was asked to pay a sum of Rs. 7,825.70 as damage rent for a period of unauthorised occupation of the quarter.

3. Shri Kulkarni contends that the action of the department to charge damage rent is not correct in as much as the department had passed an order dated 29.7.91 (Exhibit L) wherein the department had stated that the applicant's requests for retention has been considered but cannot be acceded to. However the applicant was allowed to vacate the quarter on or before 31.8.91. Shri Kulkarni states that the applicant had vacated the quarter after about a week. The fact that the applicant had been allowed to vacate the quarter on or before 31.8.91, would show that the Estate Officer has given permission to the applicant

to retain it upto that date. In view of this the retention of quarter upto 31.8.91 cannot be considered as unauthorised occupation.


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4. Shri Karkera argues that the Estate Officer's intention was that the applicant would not be thrown out before 31.8.91 and the Estate Officer does not have the power ^{under SR 317-B-22} to give permission for retention of the quarter beyond the period of six months over this normal period of two months in the case of transfer.

5. There is force in the contention of Shri Karkera. However I find that the applicant had vacated the quarter after about four months from 26.3.91 upto which he was formally permitted to retain the quarter. He had also represented to the Post Master General on 28.11.94 (Exhibit C) wherein he had prayed for waiver of the damage rent. This representation admittedly is still not disposed of. Shri Karkera states that the PMG is not the competent authority to waive the damage rent.

6. In the facts and circumstances of the case I hold that the applicant may submit another detailed representation to the concerned authorities with a request for waiver of damage rent with proper justification. If he submits such a representation withing two weeks from today, the concerned authority will dispose of the representation within three months from the date of such representation by means of a speaking order.

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7. With the above direction the O.A. is disposed of. No order as to costs.


(V. Ramakrishnan)
Member (A)

NS