

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

OA No 797/92 : Date of order 23.8.94
(OA no. 83/91)

K.L. Dukhadia : Applicant

v/s

Union of India & Others : Respondents

Mr. P.D. Khanna : Counsel for the applicant

Mr. V.D. Bhargava : Counsel for the respondents.

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Hon'ble Mr. Gopal Krishna, Member (Judicial)

PER HON'BLE MR. GOPAL KRISHNA, MEMBER (JUDICIAL)

Applicant K.L. Dukhadia has filed this application u/s 19 of the Administrative Tribunals Act, 1985, praying that Annexure A-1 dated 29.11.90, by which the period of retention of the quarter in question beyond 16.12.90 was treated as unauthorised and he was asked to pay rent at damage rates, may be quashed. He has further prayed for permission to retain the railway accommodation at Ajmer till 30.6.91 on payment of special licence fee as per Annexure A-4.

2. I have heard the learned counsel for the parties and have perused the records of the case carefully.

3. While working as Divisional Personnel Officer in the Western Railway at Ajmer, the applicant was transferred to Bombay as Senior Personnel Officer (Welfare) and posted in the Head-quarter Office, Church Gate, Bombay. He was allotted railway bungalow no. 349 at Ajmer. He resided therein with his family. After the applicant joined at Bombay, the respondent no. 2 granted permission to retain the accommodation at Ajmer for a period of two months from 17.4.90 to 16.6.90 on payment of normal rent. Thereafter, the respondent no. 1 further granted permission to retain the accommodation for a period of six months from 17.6.90 to 16.12.90 on payment of special licence fee on medical grounds as the applicant's wife was unwell and she was undergoing treatment at the railway hospital, Ajmer. On

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22.11.90, the applicant prayed for further extension of the period of retention of the house beyond 16.12.90 as one of his sons was a regular student of Demonstration Multipurpose School, Regional College at Ajmer and the school session was likely to last upto 30.6.91 but the period of retention beyond 16.12.90 having been treated as unauthorised, he was asked to pay rent at damage rates. The application has been contested by the respondents. Their contention is that the applicant's occupation of the quarter beyond 16.12.90 is unauthorised and rent is to be charged at damage rates.

4. In terms of the Railway Board's letter no. E(G)85QR 1-9 dt. 15.1.1990 (Annexure A-4) a Railway employee on transfer from one station to another which necessitates changes of residence may be permitted to retain the railway accommodation at the former station of posting for a period of two months on payment of normal rent or single flat rate of licence fee/rent. On request by the employee, on educational or sickness account, period of retention of railway accommodation may be extended for a further period of six months on payment of special licence fee, i.e. double the flat rate of licence fee/rent. Further extension beyond the aforesaid period may be granted on educational ground only to cover the current academic session on payment of special licence fee. The applicant has admittedly vacated the bungalow allotted to him on 31.3.91. The railway board's letter provides for further retention of accommodation beyond the period of eight months on educational ground only to cover the current academic session on payment of ^{special} licence fee. The learned counsel for the applicant has relied on a decision dated 15.10.90 in OA no. 523/90 rendered by the Jodhpur Bench of the Tribunal (Annexure A-5) in support of his contention that the retention of the bungalow in question till the date ^{of} its vacation on 31.3.91 was not unauthorised. A certificate

from the Head Master of the Demonstration Multipurpose School, Ajmer, shows that a son of the applicant was a student of the School and the academic session was to last upto 30.6.91. In these ~~the~~ circumstances, since the applicant had vacated the premises on 31.3.91, charging rent at damage rate appears to be unjust and unreasonable.

5. In view of the above discussion, the OA is allowed. The letter (Annexure A-1) dated 29.11.90 is set aside and the respondents are directed to allow further retention of the premises in question from 17.12.90 to 31.3.91 by the applicant on payment of special licence fee. No order as to costs.

G. Krishna
(GOPAL KRISHNA)
MEMBER (J.)