

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

CA 965/92 : Date of order 11.11.94

S.P. Goyal : Applicant

V/s

Union of India & Others : Respondents

Mr. Kamal Dave : Counsel for the applicant

Mr. M. Rafiq : Counsel for the respondents.

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

Hon'ble Mr. O.P. Sharma, Member (Administrative)

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

Applicant S.P. Goyal has filed this application u/s 19 of the Administrative Tribunals Act, 1985, for a direction to the respondents not to deduct the House Rent Allowance for not residing in the Government quarter as also for a direction to them to allow the applicant to draw the benefit of House Rent Allowance. He has also prayed that any action against the applicant under the Draft Rules till the date of their publication in the final official Gazette of India may be restrained.

2. The applicant's case is that while holding the post of Deputy Controller of Mines in the Indian Bureau of Mines, he was provided with a residential accommodation vide allotment letter dated 27.6.90. He was provided with Type V B-8 quarter wherein he moved with his family in the month of July, 1990, but he found the quarter incomplete and without any proper facility of water and electricity. It is also stated by him that the drinking water provided was not potable and the tests conducted shows that it was not fit for drinking purposes and was injurious to health. It is further stated that on the night of 24.9.90, the right door

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of the cup-board had fallen on the bed where he was sleeping but no injury was caused to him or to any other member of his family. However, in these circumstances, the applicant gave a notice to the respondents for vacating the quarter as per rules and sent reminders thereafter and ultimately he had to surrender the aforesaid quarter after vacating the same on 29.12.90.

3. The respondents contested the application and stated in the reply that the quarter was occupied by the applicant after its physical inspection by him. The applicant had applied for allotment and after the quarter was allotted to him, he had submitted the occupation report. The drinking water provided therein was analysed by the PHED and the analysis report (Annexure R-6) revealed that it was fit for drinking purposes. It is also stated that the occurrence as to the falling of a door of a cup-board cannot be attributed to the quality of wooden material used. It might be due to mis-handling of the cup-board, since no such complaint of this nature was received from any other occupants of the Government Houses. The applicant has stated in the rejoinder that similar complaints were made by others also.

4. We have heard the learned counsel for the parties and have perused the records of the case.

5. The contention of the applicant is that the quarter allotted to him was incomplete and the quality of its construction being poor was hazardous to life. It was due to the unsafe conditions of the house that he had to vacate ~~his house~~ ^{it}. In the circumstances, the applicant claims House Rent Allowance as admissible under Rules w.e.f. January, 1991. So far as the water facility available in the quarter is

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(Annexure R-5 and R-6) that the water was fit for human consumption. As to the electric facility, there is no averment by the applicant that there was no separate metre in the quarter. If the applicant was made to pay the electric charges at industrial rates, he could have complained about it to the concerned authorities and it was for them to take up this matter and issue necessary orders. The mere falling of the door of a cup-board is not enough to conclude that the house was unsafe and staying therein was dangerous to life. If the notice for vacating the quarter in the circumstances mentioned above was not replied by the respondents, it does not mean that the applicant acquired a right to vacate the quarter and continue to claim House Rent Allowance even after vacating the same.

6. The learned counsel for the applicant cited certain rulings reported in (1989) 11 ATC 471 (N. Parushothaman Vs. Postmaster General, Kerala Circle, Trivandrum and Another), (1990) 12 ATC 15 (V.P. Francis and Others Vs. Divisional Railway Manager, Southern Railway, Trivandrum and Others) and (1990) 14 ATC 244 (P.P. Thomas Vs. Union of India and Others). But the facts of these cases are quite different from the facts of the present case and in our opinion these rulings are of no help to the applicant. The quarter was allotted to the applicant as per his entitlement. The facts stated by the applicant in his application in regard to the quarter do not establish that it was unsafe for human habitation or the quality of construction was such as could be dangerous to life. Now we need not discuss the question regarding the applicability of the Draft Rules referred to by the applicant.

7. In view of the above discussions, we find no merit in this application and it is, therefore, dismissed with no order as to costs.

(G.P. SHARMA)
MEMBER (A)

G. Krishna
(GOPAL KRISHNA)
MEMBER (J)