

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH: AT HYDERABAD.

O.A.No. 137 of 1989.

DATE OF DECISION: 25.4.90

~~T.A.No.~~

Petitioner.

Advocate for the  
petitioner(s)

Versus

Respondent.

Advocate for the  
Respondent(s)

CORAM:

THE HON'BLE MR. J.NARASIMHA MURTHY : MEMBER (J)

THE HON'BLE MR. R.Balasubramanian: Member (A)

1. Whether Reporters of local papers may be allowed to see the Judgment ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the Judgment ?
4. Whether it needs to be circulated to other Benches of the Tribunals ?
5. Remarks of Vice Chairman on columns 1, 2, 4 (To be submitted to Hon'ble Vice Chairman where he is not on the Bench)

JNM  
HM(J)

RBS  
M(A)

42

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD  
BENCH : AT HYDERABAD :

O.A.No.137 of 1989.

Date of Judgment : 25.4.9

Dr.G.V.Chelapathi Rao,

....Applicant

Versus

1. The Comptroller & Auditor General of India, 10, Bahadursha Jarfar Marg, New Delhi - 110 002.
2. The Accountant General (A&E), Andhra Pradesh, Hyderabad - 500 463.
3. The Director of Audit, Central Revenues, New Delhi.
4. Accountant General Audit-I, Hyderabad.

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Counsel for the Applicant : Shri I.Dakshina Murthy,  
Advocate.

Counsel for the Respondents : Shri Naram Bhaskar Rao,  
Addl.CGSC.

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CORAM:

HONOURABLE SHRI J.NARASIMHA MURTHY : MEMBER (J)  
Hon'ble Sri R.Balasubramanian, Member (A)

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The facts of the case are briefly narrated as follows:-

The applicant is an I.A. & A.S. Officer of the rank of Accountant General was posted to Hyderabad in February, 1986. He stayed in his own house No.9-4-84/4, Kakatiyanagar, Hyderabad-500 008 upto the date of retirement. There are no Government Quarters suitable to the category of official status as Accountant General. The quarters with a lesser plinth area available were not officially allotted to him. The quarters allegedly

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stated to be meant for him were under repairs from 24-2-86 to 22-3-86 and these quarters were later occupied by another I.A. & A.S. Officer Sri K.Krishna Das from 31-3-86 onwards. The applicant stayed in his own house with the permission of the Comptroller & Auditor General. On the allegation that the applicant had not stayed in the Government Quarters, he was not paid House Rent Allowance for the period from 15-2-86 to 31-8-87. Hence this application.

2. A counter has been filed by the respondents stating that in the Mint Compound at Hyderabad there are Government Quarters built specially for the officers of Indian Audit and Accounts Service posted in the office of Accountants General, Hyderabad. Two of the Duplex quarters are meant for Accountants General. Respondents further state that the applicant after his posting at Hyderabad as Accountant General (Audit-I), Andhra Pradesh in his letter dated 3-2-86 wrote to Respondent No.1 which reads as follows :-

"You are perhaps aware that there is a quarter meant for the Accountant General (Audit-I) which was being occupied by Smt. Padma till she vacated it yesterday i.e. on 2nd February. As I have built a residence from out of House Building Advance sanctioned by Government of India and as I have only an year and half of service left, I would like to remain in my own house. The quarter may kindly be allotted to other needy IAAS Officers".

contd...3.

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While accepting the proposal for allotment of the said quarter to another I.A. & A.S. Officer, the applicant through a letter dt. 31-3-1986 was informed that no house rent allowance would be payable to him. It is further stated that the 4th respondent i.e. Office of the Accountant General (Audit-I), Andhra Pradesh, in its letter dated 17-9-1987 sought a clarification from the first respondent whether the house rent allowance from 15-2-1987 would be admissible to the applicant. Respondent No.1 in his letter dt. 7-4-88 clarified that the applicant is not entitled to draw House Rent Allowance from 15-2-87. It is further alleged that the applicant being Head of the Office managed to get a copy of the letter dt. 7-4-88 of the Respondent No.1. Thus the letter dated 7-4-88 of the 1st respondent is only a clarification to the doubt raised by the office of the 4th respondent. It is not in reply to any of the appeals/representations to the respondent No.1. Hence the letter dt. 7-4-88 of the respondent No.1 cannot be made as impugned order. The letter dt. 7-4-88 have been made the basis of this application simply with the motive to mislead the Hon'ble Tribunal and bring the application within the limitation period under section 21 of Central Administrative Tribunals Act, 1985. It is further stated that the applicant had not made any representations against the clarification

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20/8/87

dt. 7-4-88 before approaching the Hon'ble Tribunal.

Hence it has attracted section 20 of Central Administrative Tribunals Act, 1985 and the application is liable to be dismissed on that ground alone.

3. The one year period of limitation under section 21(1)(b) also expired on 25-12-1987 according to his representation dt. 25-6-1986. Applicant did not take any remedial measure for 14 months from the expiry of limitation period expired on 25-12-1987 and filed this application on 10-2-1989 only. Thus the application has become time-barred both under sub-section (a) and (b) of section 21(1) of Central Administrative Tribunals Act, 1985.

4. It is further stated in the counter that the applicant is fully aware that one of the duplex quarter was meant for him as mentioned in his letter dt. 3-2-86. He however refused to occupy this Government accommodation on the ground that he had built a residence at Hyderabad and he would like to remain in his own house. In his letter dt. 3-2-86 he had not mentioned that the said accommodation was not suitable to his official status.

It is clear from the letter dated 17-7-86 from the respondent No.2 that the quarter meant for the applicant was available for allotment and occupation on 3-2-86. Accord-

ing to the Government orders regulating H.R.A. to Government servants, in cities where a Government accommodation

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is available, House Rent Allowance becomes admissible to a Government servant on production of a 'No Accommodation Certificate' in respect of Government accommodation at his place of posting. However, the requirement of this certificate has been dispensed with in the cities where there is acute shortage of Government accommodation.

Thus, according to the said Government orders the applicant was not entitled to House Rent Allowance as he refused to occupy the quarter available for him. Further, the policy frame work under which accommodation facilities were created exclusively for IA & AS officers and earmarked for them has been clearly enunciated by the Comptroller and Auditor General of India in his circular dt. 20-9-67 and dt. 22-11-67. If the liberty not to occupy the accommodation built specifically for them is given to such officers, rationale behind getting funds from Government and investment of huge capital on creation of such facilities will be defeated.

5. The applicant in his letter dt. 3-2-86 refused to occupy the Government accommodation meant for him. In reply he was informed in very clear words that he would not be entitled to House Rent Allowance on the basis of Government of India orders referred supra.

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SEP 86

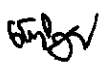
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6. It is further stated in the counter that the accommodation in Mint Compound, Hyderabad is exclusively meant for IA & AS Officers. The Duplex houses are meant for Accountants General as accepted by the applicant. These quarters were built in 1978 as per the specification on a living area of 126.50 Sq.Mtrs. The duplex quarters built in 1978 and meant for Accountant Generals are well comparable with E1 type accommodation in general pool. It is further stated that the duplex quarter meant for the applicant was available for allotment on 3--2--1986 vide letter dated 17--7--1986. This quarter was allotted to Shri K.Krishna Das from 31--3--1986 after the applicant has refused to occupy it vide his letter dated 3-2-1986. Shri Krishna Das was not entitled to House Rent Allowance for having occupied Government Accommodation under Rule 4(b)(i). The applicant was ineligible for drawal of H.R.A., as explained above. In view of the reasons stated above, respondents state in their counter that the application is barred by limitation and it is liable to be dismissed in limini and the applicant is not entitled to House Rent Allowance.

7. We heard both the counsel for the applicant and Respondent.

8. Sri Bhaskar Rao drew our attention to the O.M.No.12034(1)/82.Pol.III dated the 10th April,1985 and the 24th April,1987 issued by the G.I., Directorate of Estates which reads as follows:

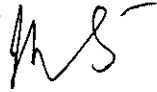
"The allowances shall not be admissible to those who occupy accommodation provided by the Government or those to whom accommodation has been offered by Government but who have

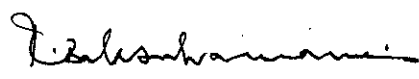


refused it. In the latter case, the allowance will not be admissible for the period for which a Government servant is debarred from further allotment of Government accommodation under the allotment rules applicable to him."

Moreover the Respondents permitted the applicant to occupy his own house on condition that he will not be eligible for H.R.A. Thus it is clear that this applicant is not eligible for H.R.A.

In the circumstances, we see no merit in this application. The Application is accordingly dismissed. No order as to costs.

  
(J. NARASIMHAMURTY)  
Member (J)

  
(R. BALASUBRAMANYAM)  
Member (A)

Date: 25<sup>th</sup> APRIL 1990

  
DEPUTY REGISTRAR (J)

AV1/SSS.

To:

1. The Comptroller & Auditor General of India, 10, Bahadursha Jaffar Marg, New Delhi-110 002.
2. The Accountant General (A&E) Andhra Pradesh, Hyderabad-43.
3. The Director of Audit, Central Revenues, New Delhi.
4. The Accountant General Audit-I, Hyderabad.
5. One copy to Mr. I. Dakshina Murthy, Advocate, 10-1-18/25, Shyamnagar, Masab Tank, Hyderabad-500 004.
6. One copy to Mr. Naram Bhaskara Rao, Addl. CGSC, CAT., Hyd.
7. One spare copy.

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kj.



30/4/90

CHECKED BY

TYPED BY: 14/30/4

COMPARED BY :

IN THE CENTRAL ADMINISTRATIVE TRIBU-  
NAL:HYDERABAD BENCH:HYD.

HON'BLE MR. B.N. JAYASIMHA: V.C.  
AND  
HON'BLE MR. D. SURYA RAO: MEMBER: (JUDL)  
AND  
HON'BLE MR. J. NARASIMHA MURTHY (M) (J)  
AND  
HON'BLE MR. R. BALASUBRAMANIAN: (M) (A)

DATED: 25.4.90

ORDER/JUDGMENT:

M.A./R.A./C.A./No. --- in  
T.A.No. --- W.P.No. ---  
O.A.No. 137/89.

Admitted and Interim directions  
issued.  
Allowed.  
Dismissed for default.  
Dismissed.  
Disposed of with direction.  
M.A. ordered.  
No order as to costs.  
Sent to Xerox on:

21/4/90

