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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, HYDERABAD BENCH
AT HYDERABAD.

O.A.No. 1248/95.

Date: 29/6 July, 1997

Between:

S.K. Khaja Mohiuddin. Applicant

And

1. Chief General Manager (Telecom)
A.P.Telcom Circle, Abids,
Hyderabad 500 001,

2. The Telecom District Manager,
Kurnool 518 001.

3. Post Master Kurnool HPO,
Kurnool 518 001. Respondents.

Sri D.Subrahmanyam for
Counsel for the applicant: Sri K.S.R. Anjaneyulu.

Counsel for the respondents: Mrs. Manjula for Mr. K.Ramulu.

DISRAM:

JUDGMENT.

(by Hon'ble Shri H. Rajendra Prasad, Member (A))

Heard Sri D.Subrahmanyam for Sri K.S.R.

Anjaneyulu for the applicant and Mrs. Manjula for
Mr. K.Ramulu for respondents.

1. The applicant was a member of Telecom service
and retired on superannuation on 30-6-1994. A standard
licensing fee of Rs.109.00 per month was paid by him in
respect of the residential quarter allotted to him by the
Department, besides Rs.15.00 as service charge. As per
the relevant rules the applicant could normally retain
the said quarters upto 30.10.1994 on payment of normal
rent/fee after his retirement. The applicant, however,

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applied for further retention and was duly permitted to remain in occupation of the quarters upto 28-2-1995. The applicant finally vacated the quarters on 3-7-1995. Thus the retention of accommodation beyond the period of permission was 4 months 3 days.

2. According to the applicant he was required to pay only Rs.2,180.00, besides service charge of Rs.180.00 as under:

July to October,1994 at Rs.109.00 Rs. 436.00

November,1994 to February1995
at Rs.218.00 .. " 872.00

March to June,1995 at Rs.218.00 " 872.00

Additionally the applicant was bound to pay Rs.180.00 as service charges for the same period. Thus 180.00 was required to be paid by him 2360.00 a total of Rs.2360.00/towards the rent/fee of the accommodation under his occupation. Of this the applicant credited the following amounts on the dates shown.

14--9-1994.	Rs. 744.00
16-2-1995	Rs. 495.00
Recovered from DCRG	Rs. 218.00

			Rs.1,458.00

3. It is the contention of the applicant that as against the balance of Rs.902.00(total payable Rs.2360.00) less deposited/credited Rs.1,458.00), he is being asked to pay a much higher amount as under:

Rs.4,775.00(Annexure 1)
Rs.4,708.00(Annexure 6)

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He has been further informed by the respondents that this amount is only provisional and the exact amount which may be found due from him shall be intimated after ascertaining the same from CPWD.

4. The applicant thereafter submitted a representation (Annexure 5) addressed to the 2nd Respondent on 16-9-1995. The same has not yet been disposed of, according to the averment of the applicant.

5. The contention of the applicant is that he cannot be said to have been in unauthorised occupation of the departmental quarters inasmuch as he had duly represented for further renewed retention of quarters as permitted by rules. No decision was taken in the matter and his representation was neither rejected nor accepted. The grievance is that the impugned recovery of so-called damage/market rent from the Dearness relief payable to him is neither just nor warranted. It is an arbitrary decision since no notice was served on him by the respondents before resorting to such measure. Lastly, the applicant asserts that no damage/market rent can be initiated nor can he be termed an unauthorised occupant without initiating action under Public Premises (Eviction of Unauthorised Occupants) Act, 1971.

6. Despite numerous opportunities provided and sufficient time having been granted to the respondents from time to time no counter-affidavit has been filed

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on their behalf. It is not therefore known what the stance of the respondents is in this case. In view of this, this Tribunal has had no option except to proceed on the basis of facts available on record as stated by the applicant.

7. The correct procedure for levying damage rent from unauthorised occupants is contained in the following orders of Government of India:

i) Ministry of Urban Development (Directorate of Estates) OM No.18011/(12)/73-Pol.III d/27-8-1987.

ii) OM ND. 18011/(8)/Pol.III/dated 1--4--1991.

iii) OM No. 13011/(12)/Pol.III.Pt. dated 20-1-1989.

The periods for which the allotment of a quarter subsists, and the concessional periods for their further retention is covered under SR 317-D(11) with special reference to sub-rule (2)(ii). The rates of licence fee to be charged for the period of retention of residential accommodation beyond normal permissible period are laid down in the G.O.I., M/o Urban Development (Directorate of Estates) OM No.12035/1/85- Pol.III (Vol.III) dated 27th July,1989.

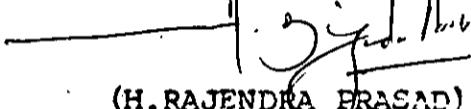
8. None of the above provisions/instructions/rules seem to have been kept in view by the respondents while issuing the impugned order. The representation submitted by the applicant has apparently remained unattended. No notice appears to have been served on the applicant prior to the issue of the impugned order. In the light of the failure

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of the departmental authority to observe the essential and relevant regulations and the O.Ms., already referred to, the impugned order cannot be sustained. The same is, therefore, quashed. The respondents are free to call upon the applicant to credit the due amounts calculated as per the provisions of the relevant rules and in accordance with the instructions issued by the Government from time to time.

Thus the O.A., is disposed of. No costs.


(H. RAJENDRA PRASAD)

MEMBER (A)

Date: 29th July, 1997


Deputy Registrar (S) ce

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TYPED BY

CHECKED BY

COMPARED BY

APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD

THE HON'BLE MR.JUSTICE
VICE-CHAIRMAN
and

THE HON'BLE MR.H.RAJENDRA PRASAD:M(A)

Dated: 28-7 -1997

ORDER/JUDGMENT

M.A./R.A./C.A.No.

in

O.A.No.

1248/95-

T.A.No.

(w.p.)

Admitted and Interim directions
Issued.

Allowed

Disposed of with directions

Dismissed.

Dismissed as withdrawn

Dismissed for default.

Ordered/Rejected.

No order as to costs.

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