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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

ORIGINAL APPLICATION NO.687/96

DATE OF ORDER : 16-12-1996.

Between :-

M.A.Hafeez

.. Applicant

And

1. The Sr. Supdt of Post Offices,
South East Division, Hyderabad.
2. The Director of Postal Services,
Hyderabad City Region, Hyderabad.
3. The Director of Accounts (Postal),
Hyderabad.

.. Respondents

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Counsel for the Applicant : Shri Sanaka Ramakrishna Rao

Counsel for the Respondents : Shri V.Vinod Kumar, Addl.CGSC

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CORAM:

THE HON'BLE SHRI B.S.JAI PARAMESHWAR : MEMBER (3)

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.. 2.

(Order per Hon'ble Shri B.S.Jai Parameshwar, Member (A)).

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The case of the applicant is that he was working as Sub-Post Master in the cadre of HSG-II at Kanchan Bagh Post Office and retired from service on 30-9-95. While he was in service he ^{with} was provided ~~a~~ a quarter at Kanchan Bagh at a nominal rent of Rs.117/- per month. By letter No.D-65 dt.21-11-95 the applicant was asked to vacate the quarter by 30-11-95. The applicant could not vacate the quarters as on 30-11-95 as his own house was under construction and his children were undergoing education. Therefore he requested the authorities to extend the period for vacating the quarters till the end of March, 1996. However his request was not considered and the applicant vacated the quarter on 26-2-96.

2. The Department has recovered a sum of Rs.8,969/- towards the licence fee for the quarter for the period from 1-12-95 to 28-2-96.

3. Feeling aggrieved by the action of the respondents in recovering the sum of Rs.8,969/- for ^{his} the occupation of quarter from 1-12-95 to 28-2-96, the applicant filed this application praying this Tribunal to direct respondents to refund the sum of Rs.8,267/- (Rs.8,301/-) with interest at the rate of 18%.

4. It is submitted for the applicant that he was due to get the retirement gratuity on 1-10-95 but he was ~~not~~ paid only Rs.38,600/- out of Rs.65,000. That out of the remain amount a sum of Rs.8,969/- was recovered towards the licence fee for the occupation of the quarter, which was not under the demand. Even ~~he~~ after he

47

vacated the quarter, the same was lying vacant for three months. Further the said quarter was not a post attached quarter. Inspite of the pecuniary hardship, the applicant is willing to pay the rent at the double rate for the period from 1-12-95 to 28-2-96. There is delay of 6 months in payment of gratuity and a portion of the retirement benefits were paid to him after he vacated the premises.

5. The respondents have filed their counter contending that 90% of the Death-cum-retirement gratuity was paid to the applicant on 5-10-95. That most of the retiral benefits were paid to the applicant within ~~suitable~~^{the reasonable} time. That the applicant was permitted to continue to occupy the quarters up to 30-11-96. That the quarters occupied by the applicant was a post attached quarter. That the applicant made a representation to continue to occupy the said quarter till the end of March, 96 which was rejected by the authorities. As there is no provision to extend the period of occupation ~~of quarter~~ ^{post attached} beyond 2 months ~~in the case of post attached quarters~~, the period of occupation beyond 2 months was treated as unauthorised/illegal occupation and the rent was charged at the rate of Rs.55/- per sq.feet ^{per month for living area} from 1-12-95 to 26-2-96.

6. During the course of arguments the learned counsel for the respondents furnished a copy of the letter dt.29-11-95 through which the applicant was informed that he was in occupation of a post attached quarter and as per the existing rules retention of ~~the~~ post attached quarters could be granted up to 2 months and not beyond that period. Further in the said letter he was directed to refer to the earlier letters dt.18-10-95, 1,11.95 and 21.11.95 and to vacate the quarters by 30-11-95 positively.

7. The learned counsel for the respondents also produced the letter dt.18011/3/92 dt.30-5-95 wherein the rates of damages for unauthorised occupation of Postal Accommodation was revised. During the course of argument, the learned counsel for the respondents further submitted that the circular instructions relied upon by the applicant are applicable to the General Pool Accommodation and the same cannot be/applicable to post attached quarters.

8. Even though the learned counsel for the applicant disputed that the quarters occupied by him is a post attached quarter, by a communication dt.29-11-95 he was made aware that he was occupying the quarters which was attached to the post. The learned counsel for the applicant further relied upon the circular instructions dt.13/16-9-88 issued for considering unauthorised occupation of the quarters on retirement/death/transfer. He relied upon paras (e) and (g) of the said instructions, which reads as follows :

- "(e) The retention of a post-attached quarter can be granted by the Head of a Circle, only upto a period of two months and not beyond.
- (g) Request for retention of quarters by retired officials can be granted under the provision of the Directorate letter No.2-67/86-NB(P) dt.8-8-86."

Under the said rules it was for the department to consider to extend retention of the post attached quarters. However, the applicant was informed by the letter dt.29-11-95 that his request for retention could not be considered. The learned counsel contends that the applicant should have been informed in advance about the circular instructions contained in letter dt.30-5-95 and the department's intention to recover the rent at the rate

for living area per month.
of Rs.55/- per sq.feet. However I humbly feel that the retention
of the quarters by the applicant was under ~~the~~ justifiable ^{Circumstances} cause.
It is for the respondents to consider whether the damages ~~rent~~ is
to be recovered or not. I feel that recovery of Rs.8,969/- from
the graguity of the applicant appears to be severe having regard
to the conditions and financial circumstances of the applicant.
The applicant may make a suitable representation to the Directorate
to re-consider the issue of recovery of damages for the period
from 1-12-95 to 26-2-96. In case such a representation is made,
the Directorate may consider it sympathetically within 3 months
from the date of receipt of the representation. With these obser-
vations the O.A. is disposed of. No order as to costs.


(B.S.JAI PARAMESHWAR)
Member (J)

16/12/96


By Registrar (J)

Dated: 16th December, 1996.
Dictated in Open Court.

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Copy to:-

1. The Sr. Supdt of Post Offices, South East Division, Hyd.
2. The Director of Postal Services, Hyderabad City Region, Hyd.
3. The Director of Accounts(Postal), Hyd.
4. One copy to Sri.S. Ramakrishna Rao, advocate, CAT, Hyd.
5. One copy to Sri. V. Vinod Kumar, Addl. CGSC, CAT, Hyd.
6. One copy to Library, CAT, Hyd.
7. One spare copy.
8. One copy to Hon'ble B.S.Jai Parameshwar, Judicial Member.

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11/119 "11 THIS MONTH

11/119, HYDRAWD

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CHECKED BY

COMPARED BY

APPROVED BY

THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH HYDERABAD

THE HON'BLE SHRI R. RANGARAJAN: M(A)

AND

THE HON'BLE SHRI B.S. DAI PARAMESHWAR
M(J)

DATED:

16/12/96

ORDER/JUDGEMENT

R.A./C.P./M.A./NO.

O.A. NO.

687/96

ADMITTED AND INTERIM DIRECTIONS ISSUED
ALL MOED

DISPOSED OF WITH DIRECTIONS

DISMISSED

DISMISSED AS WITHDRAWN

PROBED/REJECTED

NO ORDER AS TO COSTS.

II COURT

YLKR

केन्द्रीय प्रशासनिक अधिकारी
Central Administrative Tribunal

DESPATCH/DESPATCH

1 JAN 1997

हैदराबाद आयोग
HYDERABAD BENCH