

45

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH:
AT HYDERABAD

ORIGINAL APPLICATION NO.997 of 1999

DATE OF JUDGEMENT: 3rd AUGUST, 1999

BETWEEN:

Dr.P.V.N.RAO

.. APPLICANT

AND

1. The Chief Post Master General,
A.P.Circle, Hyderabad-1,
2. The Post Master General,
Vijayawada Region,
Vijayawada 520 002,
3. Mrs.Sharada Sampath,
Director of Postal Services,
Vijayawada-520 002.

.. RESPONDENTS

COUNSEL FOR THE APPLICANT: Mr.M.PANDURANGA RAO

COUNSEL FOR THE RESPONDENTS: Mr.B.Narasimha Sarma, Sr.CGSC

CORAM:

HON'BLE SHRI R.RANGARAJAN, MEMBER (ADMN.)

HON'BLE SHRI B.S.JAI PARAMESHWAR, MEMBER (JUDL.)

JUDGEMENT

ORDER (PER HON'BLE SHRI R.RANGARAJAN, MEMBER (ADMN.))

Heard Mr.M.Panduranga Rao, learned counsel for the applicant and Mr.B.Narasimha Sarma, learned standing counsel for the respondents.

2. The applicant in this OA is the Chief Medical Officer of P&T Dispensary. Earlier he was Senior Medical Officer of the Dispensary from 1981 and was promoted as Chief Medical Officer since November, 1991. Till he took

✓

○

over the quarter in question in this OA, he was residing in a rented house. The applicant submitted a representation for allotting Type-V quarter presently occupied by him located in Mohiuddin Estate, Vijayawada as that quarter was vacant. That quarter was allotted to him with a condition that the applicant should give an undertaking to vacate the quarter at 3 months' notice, by the Memo NO.BDQ/41-1, dated 26.5.98 (Annexure-2 at page 9 to the OA). The applicant accepted the condition and occupied the quarter with effect from 1.7.98 and submitted a representation for some repairs to be carried out in that quarter by the letter dated 4.7.98 (Annexure-3 at page 10 to the OA).

3. It is stated that the said house was vacant right from 1996 onwards. The Director of Postal Services namely Mr.Vijaya Kumar Nair for whom the quarter was reported to have been earmarked had also not occupied the quarter and he was staying outside. It is stated that a Type VI quarter was under construction and till then the Post Master General ~~will~~ ^{was} occupying the Type-V quarter instead of ~~the~~ Director of Postal Services. Hence the said Director of Postal Services was staying outside.

4. One Mrs.Sharada Sampat, R-3 herein joined as Director of Postal Services on 20.10.98. She was temporarily provided with Type III quarter till the said Type V quarter becomes vacant on vacation by the applicant. R-2 had ordered to send a formal letter to the applicant herein to vacate the quarter within three months by the memo No.BDQ/41-1, dated 1/7.1.99 (Annexure-4 at page 11 to the OA). The applicant after lapse of three months,



addressed a letter dated 7.4.99 to R-2 to continue him in the said quarter. The matter was then referred to R-1 to attach the quarter to Director of Postal Services who instructed the PMG to ask the applicant to vacate the quarter and allot the quarter to R-3.

5. The applicant submits that the quarter was vacant right from 1996 onwards. Since the quarter was vacant, he was allowed to occupy that quarter. Further his services as Medical Practitioner are required by the employees of the P&T Department in Vijayawada every now and then. If he resides outside, it causes lot of inconvenience to the employees to come to him for medical treatment. Hence to avoid inconvenience to the postal employees and under the pressure from the staff and union, the respondents agreed to allot that quarter to him. Though he accepted to vacate the quarter at three months' notice, he submits that he has no quarter to occupy and staying in a rented house outside will cause inconvenience and due to his son's education he is compelled to stay in this quarter.

6. This OA is filed to declare that the action of R1 in issuing letter NO.BDO/PMG VJ/98, dated 11.6.99 (Annexure R-11 at page 19 to the reply) purporting to attach the Type-V quarter occupied by the applicant to the post of Director of Postal Services and asking the applicant to vacate the same is irregular, illegal and arbitrary and for a consequential direction to the respondents to continue the applicant in the said quarter.

7. An interim order was passed in this OA on 8.7.99 whereby it ^{was} ordered that till 19.7.99, the applicant

 A handwritten signature consisting of a stylized 'D' and a horizontal line.

should not be asked to vacate the quarters. That interim order was further continued until further orders.

8. In the reply, it is stated that the said quarter was vacant and the applicant was permitted to occupy that quarter provided he agrees to vacate the quarter by issue of three months' notice. Now the Director of Postal Services has been posted and providing quarter to the Director of Postal Services is essential. The quarter was earmarked for the Director of Postal Services/Post Master General even earlier which is evident from the letter at Annexure R-3 at page 11 to the reply. Hence it cannot be said that the quarter was earmarked for the Director of Postal Services only by the impugned order. It was earmarked even earlier itself but it was kept vacant as the officer to whom it was earmarked did not occupy for adequate reasons. In view of that only an undertaking was obtained from the applicant to vacate the quarter within three months from the issue of the notice for vacating the quarter. Having accepted the condition before occupying the quarter, the applicant cannot now turn back and argue that he should be allowed to continue in that quarter. Hence the OA has to be dismissed as there is no merit in this OA.

9. The applicant having given the undertaking, cannot now wriggle out of his assurance just because it is inconvenient to him. No doubt, the applicant gave such an undertaking because of the fact that he required the quarter for personal reasons. Though the applicant submits that he was given the quarter as he was to attend the

N

A *J*

patients frequently, such a submission is not found in the records produced by him as well as by the respondents. The respondents submit that there are four doctors and hence the question of the applicant ^{being} asked to attend ~~the~~ the patients frequently may not arise.

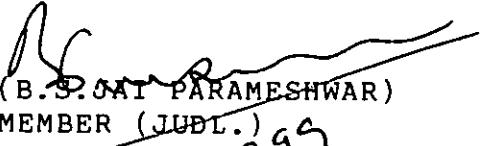
10. But the whole case has to be looked into from the point of view of the welfare measures of the Department. The subsidised quarter is given to a Government servant so as to enable him to discharge his duties efficiently without worry for decent accommodation. If his case is viewed from that angle, then the applicant's request for allotting a quarter appears to be in order. But the quarter in question had been earmarked for the Director of Postal Services. Such earmarking cannot be questioned as the departmental authorities are competent to earmark the quarter taking into account the duty list and other attendant reasons. But at the same time the case of the applicant also has to be looked into sympathetically.

11. Considering the above view points, the applicant should be given time to vacate the quarter in about four months time from the date of receipt of a copy of this order. But in the meantime if he is given an alternative accommodation, say Type-III, the applicant should vacate the quarter presently occupied by him immediately after allotment of the alternative quarter, either Type III or any other suitable quarter. If he does not vacate on allotment, then the respondents can enforce eviction order even before the expiry of four months.

N

D

12. With the above direction, the OA is disposed of.
No order as to costs.


(B.S. SAI PARAMESHWAR)

MEMBER (JUDL.)

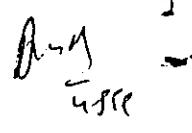
3.8.99


(R. RANGARAJAN)

MEMBER (ADMN.)

DATED:  AUGUST, 1999

vsn


Aug 4/99

1st AND 2nd COURT.

COPY T. -

1. HDHN3
2. HH3P M (A)
3. HOS3P M (J)
4. D.R. (A)
5. SPARE

TYPED BY
COPPIED BY

CHECKED BY
APPROVED BY

THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH, HYDERABAD:

THE HON'BLE MR. JUSTICE D.H. NASIR
VICE - CHAIRMAN

THE HON'BLE MR. H. RAJENDRA PRASAD.
MEMBER (ADMN)

THE HON'BLE MR.R. RANGARAJAN
MEMBER (ADMN)

THE HON'BLE MR. B. S. JAP PARAMESHWAR:
MEMBER (JUDL)

ORDER: Date. 3 8/11

ORDER / JUDGMENT

MA. / RA. / CP. NO
IN
RA. NO. 992198

ADMITTED AND INTERIM DIRECTIONS
ISSUED.

ALLOWED:

C. P. CLASSED

~~3-A. CLCS 3D.~~

0 A - CLOSED

DISPOSED OF WITH DIRECTIONS

DISMISSED

DISMISSED AS WITHDRAWN

ORDERED / REJECTED

NO ORDER AS TO COSTS.

