

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

P.A.No.47/95

Date of order: 20.7.1995

(O.A. 556/94)

Union of India & Ors.

: Applicant

Vs.

Charan Das

: Respondents

PER HON'BLE MR.O.P.SHARMA, MEMBER(ADM).

This review application has been filed by the Govt. respondents in respect of order dated 11.1.95 passed by me as Single Member in O.A.No.586/94, Charan Das Vs. Union of India & Ors. The applicant in the O.A had prayed that the respondents may be directed not to recover any penal rent/damages for the residential accommodation for the period from July 91 to April 1993. In the order dated 11.1.95, a finding was given that there was no justification for treating the applicant as unauthorised occupant of the quarter in question, till April 1993. Therefore, the orders of recovery of damages/penal rent were quashed and the O.A. was allowed.

2. In the review application, the government respondent have stated that two relevant facts had escaped the notice of the Tribunal. These were that the original applicant, Shri Charan Das had been communicated the order of the Chief General Manager, Telecom (CGMT), Jaipur whereby he was asked to vacate the official accommodation but he did not do so and that it was in the notice of Shri Charan Das that the CGMT, who was the competent authority, had refused such permission but in spite of that the original applicant continued to be in possession of the said accommodation. Further submission of the govt. respondents in the Review Application is that even otherwise there was no permission from any authority in favour of the original applicant for retention of the government quarter from 1.5.93 to 21.7.93. These two mistakes are apparent from the record and therefore, the review application deserves to be allowed.

4. The order dated 11.1.95 has been perused once again. A finding has been given therein that the applicant continued to be in occupation of the govt. quarter at Jodhpur till April '93 inspite of his transfer from Jodhpur to Barmer in Nonember '91 in view of the order Annx.A1 dated 8.11.91 passed by the General Manager Telecom (West) Jodhpur. In so far as the applicant was concerned, he made application for retention of the quarter at Jodhpur to his immediate superior, the General Manager and received permission from him. There are detailed reasons in the order granting permission why such permission had been granted to the applicant. It was not a case that the applicant had been ~~denied~~ permission to retain the quarter at Jodhpur and still continued to occupy it. As far as the original applicant was concerned, he had a valid authorisation from his immediate superior and if the General Manager was not competent to grant such permission as per rules, it was incumbent upon him to forward the applicant's request to the higher authority to grant such permission. Copies of the orders by which permission was granted to the applicant to retain quarters at Jodhpur were endorsed to the CGMT, Jaipur. Therefore, a finding was given that if there has been violation of the rules, it was not by the applicant, ^{and} therefore, there was no justification for treating the applicant as in unauthorised occupation of the quarter at Jodhpur.

5. As regards the contention in the Review Application that even otherwise there was no permission from any authority in favour of the original applicant for retention of the govt. quarter from 1.5.93 to 21.7.93, this was not the issue before the Tribunal. The prayer of the applicant was only that no penal rent or damage may be recovered from the period July 91 to April 93. Annxs.A3, A4 and A5 of the O.A, which were quashed all relate to recovery of penal rent/damages for unauthorised

occupation upto April 93. Therefore, the point raised now by the government respondents is not relevant.

6. The above discussion shows that the first point raised by the government respondents had been duly considered by the Tribunal and the second point raised by them was not relevant. In these circumstances, it is apparent that there is no merit in this Review Application. It is, accordingly dismissed in limine.

7. The applicant has also filed an M.A No.288/95, for condonation of delay in filing this Review Application. In the interest of justice the M.A. has been allowed and the Review Application has been considered on merits, as in para 1 to 6 of this order. The M.A. stands disposed of.



(O.P.Sharma)

Member(Adm.).