

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR

O.A.No.32/1999

Date of order: 18/7/2001

Dr.Rajiv Kumar Singh, S/o Sh;.Satyapal Singh, R/o  
CSWCRTI Research Centre, Dadwara, Kota.

...Applicant.

Vs.

1. Union of India through Secretary, Mini. of Agriculture New Delhi.
2. Central Soil & Water Conservation Research & Training Instt, 218, Kaulagarh Road, Dehradun, through its Director.
3. Sr.Administrative Officer, Central Soil & Water Conservation Research & Trng.Instt, 218, Kaulagarn Road, Dehradun.
4. Head, Central Soil & Water Conservation Research & Trng.Instt, Kota.

...Respondents.

Mr.Amitabh Bhatnagar : Counsel for applicant

Mr.Gaurav Jain : for respondents.

CORAM:

Hon'ble Mr.S.K.Agarwal, Judicial Member.

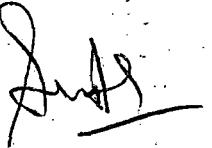
PER HON'BLE MR S.K.AGARWAL, JUDICIAL MEMBER.

In this O.A filed under Sec.19 of the ATs Act, 1985, the applicant makes a prayer to quash and set aside the order dated 19.11.98 issued by respondent No.3 and to direct the respondents not to evict the applicant from the said premises and to recover normal rate of rent from the applicant.

2. In brief, facts of the case as stated by the applicant are that the applicant was transferred from Dehradun to Kota by respondent No.3 vide order dated 28.3.98

but the applicant was relieved from Dehradun on 13.5.98 to join his new place of posting at Kota. It is stated that the applicant joined his duties at Kota on 26.8.98. It is also stated that the applicant was allowed to retain the said premises at Dehradun for two months on normal rent and for further period of two months on payment of double rate of normal rent. The applicant thereafter requested to retain the said premises upto April 1999 on normal rent on account of education of his children. The respondents issued the impugned order dated 19.11.98 directing to recover Rs.4858/- per month as penal rent from 1.11.98 till he vacate the said premises. The applicant challenged the said order and sought the relief as above.

3. Reply was filed. It is stated in the reply that the applicant was relieved on 13.5.98, before beginning of the academic session and the applicant had enough time to get his children admitted at Kota. It is stated that Kota is a big developing city having very good school facilities like Dehradun but inspite of this the applicant was allowed to retain the said premises upto 31.10.98 with the specific direction that no further request for retention will be entertained. It is stated that the applicant has a family house at 1D/1, Idgah Colony, Dehradun, therefore, retaining the Govt accommodation for education of his children is not proper. It is stated that the applicant cannot claim equality before law with others as they had been transferred to remote area and the case of Mohd. Yusuf is pending in the Court. It is stated that according to rules, the applicant was entitled to retain the quarter for two months, thereafter he should have vacated but the applicant has



vacated the same in the month of August 1999, therefore, the applicant is entitled to pay penal rent as per rules and the applicant has no case for interference by this Tribunal.

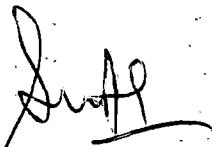
4. Rejoinder has also been filed reiterating the facts as stated by the applicant in the O.A. It is also stated that as per the provisions contained in Rule 20 read with Rule 26, the respondents can allow to retain the premises to the applicant for a period of more than six months. The applicant only needed the said premises for the academic session 1998-1999 and after getting a rented accommodation at Kota, the applicant vacated the said premises.

5. Heard the learned counsel for the parties and also perused the whole record.

6. Undoubtedly, the applicant was relieved in pursuance of order dated 28.3.98 on 13.5.98. This period cannot be said to be a mid-session. It is also an undisputed fact that at the request of the applicant, he was allowed to retain the said premises upto 31.10.98 and he was specifically directed that no further request for retention of the said premises will be entertained. In spite of this fact, the applicant retained that premises.

7. It is settled principle of law that the applicant becomes unauthorised occupant of a quarter after expiry of the extended period as it has been held by Patna Bench of the Tribunal in Krishna Chandra Rai Vs. UOI & Ors, 2001(2)(CAT) AISLJ 159.

8. It is also clear from the averments made by the respondents to which there is no rejoinder that the applicant has a family house at Idgah Colony, in Dehradun, where he could have easily shifted his family for the



purpose of education of his children and in this way he could have easily saved the penal rent. It is also clear from the conduct of the applicant that he retained the said house not till the end of the academic session, but he vacated the same on 1.8.99, much after the academic session was over.

9. In Ram Pujan Vs. Union of India, 1996(3) SLR 92, (Full Bench) the Allahabad Bench of the Tribunal held as follows:

- (i) In respect of a railway employee in occupation of a railway accommodation, no specific order cancelling the allotment of accommodation on expiry of the permissible/permitted period of retention of the quarters on transfer, retirement or otherwise is necessary and further retention of the accommodation by the railway servant would be unauthorised and penal/damage rent can be levied.
- (ii) The retention of accommodation beyond the permissible period, in view of the Railway Board's circular, would be deemed to be unauthorised occupation and there would be an automatic cancellation of allotment and penal rent/damage rent can be levied according to the rates prescribed from time to time in the Railway Board's circular."

10. On the basis of the above Full Bench order, the only conclusion which can be drawn is that one becomes unauthorised occupant of a quarter after expiry of the extended period and the department is competent enough to recover the damage rent from such unauthorised occupant and the same can be deducted from his salary.

11. The learned counsel for the respondents has urged

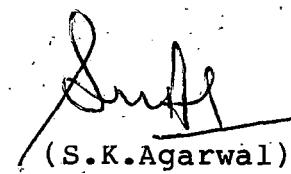
that after decision in O.A No.577 of 1999, Madhusudan Sahoo, by the Calcutta Bench of the Tribunal, the Govt of India had issued necessary instructions vide OM dated 27.2.2001 and in view of these instructions, the recovery of penal rent has been ordered. The circular has not been placed before me in original but one thing can be said definitely that the applicant remained unauthorised occupant of the said premises after the extended period i.e. 31.10.98 and the applicant was directed specifically that no further extension will be granted to him but the applicant remained unauthorised occupant till 31.7.99 and he vacated the quarter on 1.8.99 in spite of the fact that he has his own house in Dehradun. Therefore, the respondents' department has rightly passed the order of recovery of penal rent from the applicant which is perfectly in accordance with the rules and I do not find any illegality or irregularity in the said order. Therefore, the applicant has no case for interference by this Tribunal.

12. The learned counsel for the applicant has also urged that Rule 26 of the Head-quarters allotment of residence Rules, 1981 issued by the Indian Council of Agricultural Research, New Delhi, has not been given effect in this case. In this case I am not inclined to accept the contention of the counsel for the applicant as the applicant has never made such a request for relaxation of rules to the competent authority and in my considered view when the applicant was having his own house in Idgah, Dehradun, there was no case made out in favour of the applicant that Rule 26 must be invoked in this case. Therefore, the case of relaxation of rules as contained in Rule 26 is not made out at all in



favour of the applicant and the contention of the learned counsel for the applicant has no force.

13. In view of above all, I do not find any force in the O.A and the same is dismissed with no order as to costs.



(S.K. Agarwal)

Member (J).