

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No. 495 of 2003

Jabalpur, this the 29th day of ~~October~~, 2004

Hon'ble Mr. M.P.Singh, Vice Chairman

1. Shri Man Singh Singraour S/o Shri V.N.Singh aged about 40 years, Upper Division Clerk Central Circle Office, Survey of India Colony Vijay Nagar, Jabalpur-482002.
2. Shri Gopal Upadhyay S/o Late Shri Bhubneshwar Upadhyay aged about 54 years, P/Tr. Gde.II, No.61 Party(CC), Survey of India Colony, Vijay Nagar, Jabalpur.
3. Shri Basori Lal S/o Late Shri Chet Ram aged about 57 years, U.D.C. No.7 D.O.(CC), Survey of India Colony, Vijay Nagar, Jabalpur.
4. Shri Gokul P.Kodape S/o Shri Pandit Rao Kodape aged about 35 years, U.D.C. No.45 Party(CC) survey of India Colony, Vijay Nagar, Jabalpur.
5. Shri V.M.Ramtekkar S/o Shri Mahadeo Rao Ramtekkar aged about 40 years, U.D.C. No.45 Party(CC), Survey of India Colony, Vijay Nagar, Jabalpur.
6. Shri Rajesh Kamle S/o Shri Dinu Kamle aged about 33 years, D/Man Gde.II No. 7D.O(CC), Survey of India Colony, Vijay Nagar, Jabalpur.
7. Shri Ram Das S/o Late Shri Thandu aged about 55 years, D/Man Gde.II No.7 D.O.(CC), Survey of India Colony Vijay Nagar, Jabalpur.
8. Shri Chitra Sen S/o Late Shri Ayodhya Prasad aged about 52 years, P/Tr. Gde II No.45 Party(CC), Survey of India Colony, Vijay Nagar, Jabalpur.
9. Shri Ram Badal Tiwari S/o Late Shri Arjun Prasad aged about 58 years, UDC Central Circle Office survey of India Colony, Vijay Nagar, Jabalpur
10. Shri Mahadeo Bansod S/o Shri Yashwant Bansod aged about 49 years, L.D.C. Central Circle Office Survey of India Colony, Vijay Nagar, Jabalpur

APPLICANTS

(By Advocate - Shri Rajendra Shrivastava)

VERSUS

1. Union of India through its Secretary Ministry of Science and Technology Department of Survey of India Technology Bhawan New BMX Mehrauli Road New Delhi - 110016

AN

2. Director of Estates(Policy)
Directorate of Estates
Nirman Bhawan
New Delhi.
3. The Surveyor General of India
Survey of India
Block-B, Hathibarkala Estate,
Dehra Dun(Uttaranchal)
4. Director
Central Circle, Survey of India
Survey of India Colony,
Vijay Nagar, Jabalpur
5. Estate Officer
Survey of India,
Survey of India Colony,
Vijay Nagar, Jabalpur

RESPONDENTS

(By Advocate - Shri K.N.Pethia)

ORDER

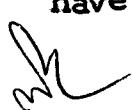
By filing this OA, the applicants have sought the following main reliefs :-

"8.1 to quash the order dt.2.5.2003
Annexure-A-8.

8.2to restrain the respondent to charge three time flat rate of licence fee relevant to that type III of accomodation from applicants.

8.3 to direct the respondent to refund excessive licence fees to applicants."

2. The brief facts of the case are that the applicants, 10 in number, are working under the respondent No.4 in different categories. In the year 1995 respondent no.4 has issued memo dated 5.9.95(Annexure-A-3) bywhich it was proposed to allot few type III quaters under conditional allotment to SOI employees who were eligible for type II quarters. Individuals who are desirous of allotment of type III quarters may be asked to apply immediately with the undertaking that they will be required to pay license fee and other charges of type III quarters and revert back to entitled scale of accommodation whenever so directed. In terms of condition stipulated in the said letter, the applicants were allotted type III quarters at Vijay Nagar on conditional basis as the type III quarters were available at that time. The applicants have alleged that in terms of SR 317-AH-4 of the rules of 1999



for they are entitled/the residence of type II as their monthly emoluments on the first day of the allotment year falls between less than Rs.5500 but not less than 3050 category. The applicants have stated that from the respective date of allotments the flat rate of license fee as prescribed by respondent no.2/time to time have been deducted from the salary of applicants till the month of May 2003. But from the month of June 2003 the respondents Nos 4 & 5 started deducting three times flat rate of license fee prescribed for type III quarter i.e. $181 \times 3 = \text{Rs.}543$ (Annexure-A-5).

According to the applicants, higher type of accommodation ~~was~~ were allotted to them, as ~~they were~~ ^{it was} lying vacant, by the respondents Nos 4 & 5 and ~~the same was~~ ^{it} ~~these~~ accommodation ~~were~~ not allotted to the applicants at their/request and, therefore, the respondents now cannot charge three times flat rate of license fee.

It is also submitted by them that from perusal of allotment order, it is clear that ~~was~~ only one condition/when the type III quarters are required for allotment to eligible ^{persons} conditions, the applicants will be required to vacate the said quarters. There was no condition stipulated in that order that the applicants will/required to pay three times flat rate of licence fees and therefore, charging of three times license fees is in violation of terms and conditions of the allotment order. Hence, the applicants have filed this OA claiming the aforesaid reliefs.

3. The respondents in their reply have stated that ⁱⁿ the present case all the applicants in their own interest requested for one up quarters vide their applications (Annexures-A-3 to A-12) and, under certain terms and conditions, the quarters were allotted to them by the Estate office". The applicants continued in the quarters till date fully knowing that in case they do not vacate the quarters they will have to pay three times license fee. The applicants have misinterpreted the Government of India



Estate Rules for their own benefit, ignoring public interest.

4. Heard the learned counsel for the parties and perused the record.

5. The learned counsel for the applicants has stated that the instructions issued by the Government of India, Ministry of Urban Development vide their O.M. dated 21.4.2003 (Annexure-A-1) stipulates as under :-

"..... in a situation where due to availability of surplus quarters at some stations, if Govt. servants are offered Govt. accommodation of a type higher than their entitlement, by the Government, in that case it has been decided to charge only flat rate of licence fee relevant to that type of accommodation from those Govt. servants who are allotted such accommodation."

After this circular a further clarification has been issued by the Ministry of Urban Development vide their memo dated 13.10.2003 (Annexure-A-10) which stipulates as under :-

"... in all cases where, due to adequate availability of quarters of a particular type, a Government employee is allotted accommodation of a type which is higher than his entitlement, only flat rate of Licence Fee relevant to that type of accommodation is to be charged from such allottee. However, three times the normal rate of Licence Fee is to be charged from those Government employees who are allotted, out of turn, Government accommodation of a type higher than their entitlement at their own request, despite there being no surplus quarters in that type."

The learned counsel for the applicants has contended that in this case, the applicants have not been allotted out of turn accommodation at their own request. They have been allotted the accommodation of type higher than their entitlement at their own request but they have not been allotted out of turn accommodation. Therefore, normal rate of license fee is required to be charged from them.

6. On the other hand, the learned counsel for the respondents has stated that as per clarification issued by the headquarters office vide their memo dated 2.5.2003 (Annexure-R-1), by which three times license fee is required to

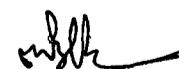
be deducted from the applicants. However, further order was issued on 19.5.2004(Annexure-A-11) which stipulates as under :-

" In the light of amendments issued vide SG's letter No.R-8250/1107-CC dated 5.5.2004, the letter of this office No.E-1839/13-A-1, dated 134-5-03 (sic) is hereby modified with immediate effect. The modifications are based on OM no.18011/290-POLIII dated 13.10.03 published in Swamy's News for March 2004 reproduced as below. The implementations of the OM will be from 21.4.03

'It has been decided that in all cases where, due to adequate availability of quarters of a particular type a Govt. employees is allotted accommodation of a type which is higher than his entitlement, only flat rate of LICENCE FEE relevant to that type of accommodation is to be charged from such allottee. However, three types of normal rate of licence fee is to be charged from those Govt. employee who are allotted out of turn, govt. accommodation of a type higher than their entitlement at their own request, despite their being not surplus quarters in that type."

6. I have given careful consideration to the arguments made on behalf of the parties and I find that the Director of Estates, Ministry of Urban Development is the nodal Ministry for deciding the license fee in respect of quarter/residential accommodation allotted to the Govt. servant. That Ministry vide its letter dated 13.10.2003(Annexure-A-10) has clarified the position with regard to recovery of the license fee in respect of the persons who are given higher type of accommodation. In this case it is an admitted position that Survey of India was having surplus Type III quarters and the same have been allotted to the applicants. Therefore, the issue is required to be settled in accordance with the instructions contained in the aforesaid order dated 13.10.2003.

7. In the result the OA is disposed of with a direction to the respondents to recover the license fee of the applicants in terms of circular dated 13.10.2003 within three months from the date of receipt of a copy of this order. No costs.


(M.P. Singh)
Vice Chairman