

**CENTRAL ADMINISTRATIVE TRIBUNAL
JABALPUR BENCH
CIRCUIT AT INDORE**

O.A. NO.503/2002

Indore, this the 12th day of August, 2003

HON'BLE SHRI SHANKER RAJU, MEMBER (J)

HON'BLE SHRI R. K. UPADHYAYA, MEMBER (A)

Mukesh Joshi
S/o Shri Premnarayan Joshi
Occupation Service
Scientific Officer, Grade-E
Centre for Advance Technology, Indore
R/o D-29/5, C.A.T. Colony
INDORE (MP).

.... Applicant

(By Advocate: Sh. C.B. Patne)

Versus

1. The Union of India
through Secretary to the Govt. of India
Ministry of Atomic Energy
MUMBAI.

2. The Director
Centre for Advance Technology
INDORE (MP).

3. The Chairman, Atomic Energy Commission
Department of Atomic Energy
C.S.M. Marg.
O.Y.C.
MUMBAI.

.... Respondents

(By Advocate: Sh. B. Dasilva through Sh. Sajid Akhtar)

ORDER (ORAL)

By Shri Shanker Raju, Member (J) :

Applicant, through this OA, has sought quashment of respondents' memorandum dated 2.7.2001 whereby penal license fee has been worked out against the applicant, and a sum of Rs. 1435/- per month has been recovered from his salary

from February, 2002 onwards. Quashment of the above order has been sought with refund of recovered licence fee. A prayer has also been made to charge normal license fee.

2. Applicant while working as Scientific Officer Grade-E, applied for Fellowship of New York University, USA. His request for grant of Extra Ordinary Leave (hereinafter called as 'EOL') was acceded to on 26.6.1996 with effect from 8.6.1996 to 31.5.1997. One of the conditions in order dated 10.9.1996 was levy of license fee on normal rates. Subsequently, applicant's retention in USA was extended and he was accorded EOL upto 11.10.1998. However, upto 21.12.1996, normal licence fee was levied upto 11.10.1998, and damage rent at the rate of Rs.65/- per square meter had been calculated from 1.11.1997 to 11.10.1998 in view of the revision of rate of damages. Though the matter has been represented but to no avail.

3. Recovery has been started from the month of February, 2002 at the rate of Rs.1435/- per month, giving rise to the present OA.

4. Learned counsel for applicant states that although normal licence fee has been recovered up to 21.12.1996, and thereafter damage rent at the rate of Rs.55/- per square meter up to 31.10.1997, revision of rate of damages at the rate of Rs.65/- per square meter has been levied without putting the applicant to notice and seeking his option, otherwise he would not have retained the accommodation which remained vacant for the period of stay of applicant at USA.

5. On the other hand, respondents have not filed any reply despite opportunity. However, learned proxy counsel for respondents has been heard.

6. We have carefully considered the rival contentions of the parties. The contention put forth that for the period of stay in USA applicant should not have been levied damage licence fee cannot be countenanced as it was made clear that beyond the period of six months market rent would be charged and the applicant filled up a bond agreeing to the same. Normal license fee was admissible only for initial period of six months of EOL. Thereafter, on extension of EOL, market rent was rightly levied in view of the damage rent of Rs.55/- per square meter. Accordingly, we do

not find any infirmity in so far as the charge of damage licence fee at the rate of Rs.3981/- per month.

7. In so far as the charge of damage licence fee at the rate of Rs.65/- per square meter is concerned, as the revision came into effect from 1.11.1997, no option has been given to the applicant to retain the accommodation on revision of damages. Accordingly, we are of the considered view that applicant has been taken aback, otherwise he would have not opted for retention of accommodation at such an exorbitant rate.

8. Be that as it may, the fact remains that without notice applicant cannot be subjected to damage rent at the rate of Rs.65/- per square meter. Accordingly, the action of the respondents to charge damage rent at the rate of Rs.65/- per square meter from 1.11.1997 to 11.10.1998 cannot be countenanced.

9. In the result, for the reasons stated above, OA is disposed of with a direction to the respondents to calculate damage/market rent of licence fee from ~~1.11.1997~~ to 11.10.1998 at the rate of Rs.55/- per square meter, i.e., 3981/- per month and recalculate the entire dues which shall be recoverable from the salary of the applicant.

10. As the recovery has been effected from February, 2002, and the same is still on, if the aforesaid amount on calculation is found to have been recovered from the applicant, no further recovery shall be effected. In the event more than what is calculated has been recovered, the same shall be refunded to applicant within a period of two months from the date of receipt of a copy of this order. The OA is accordingly disposed of. No Costs.


(R.K. UPADHYAYA)

MEMBER (A)


(SHANKER RAJU)
MEMBER (J)

/rao/