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**CENTRAL ADMINISTRATIVE TRIBUNAL
CHANDIGARH BENCH**

...
ORIGINAL APPLICATION NO.060/00622/2014

Order Reserved on 17.03.2015
Pronounced on 19.3.2015

...
CORAM: HON'BLE MRS. RAJWANT SANDHU, MEMBER (A)
HON'BLE DR. BRAHM A. AGRAWAL, MEMBER (J)

...
MES No.370191 Ajaib Singh, FGM (SK), C/o AGE BS (AF) MC 3 BRD,
Chandigarh.

... Applicant

Versus

1. Union of India through Directorate of Estates, Kendriya Sadan, Sector 9, Chandigarh.
2. Assistant Estate Manager, Kendriya Sadan, Sector-9, Chandigarh.
3. The Garrison Engineer (AF), Airport Road, N Area, Chandigarh.
4. Asstt. Garrison Engineer, (BS) (AF) MC, 3 BRD Chandigarh.

... Respondents

Present: Mr. Shailendra Sharma, counsel for the applicant.
Mr. K.K. Thakur, counsel for respondents no.1 and 2.
None for respondents no.3 and 4.

ORDER

BY HON'BLE MRS. RAJWANT SANDHU, MEMBER (A)

1. This O.A. has been filed under Section 19 of the Administrative Tribunals Act, 1985; seeking quashing of letters dated 11.06.2014 and 27.06.2014 (Annexure A-3 and A-4), whereby recovery of Rs.2,10,483/- had been ordered against the applicant. u

2. M.A. No.060/01237/2014 was filed seeking stay on recovery ordered vide letter dated 27.08.2014 and as per order dated 17.09.2014, the same was allowed and this position continues till date.

3. The background of the matter is that the applicant has been working as FGM (SK) and is posted in the office of respondent no.4 under the command of respondent no.3. Earlier Type I Govt. accommodation, house No.1753 F was allotted to the applicant in Sector 7, Chandigarh by respondent no.2 in the year 2006 but this allotment was cancelled by respondent no.2 on account of alleged subletting and in 2008 the applicant surrendered this accommodation after paying market rent for one month. In 2010, respondent no.2 again allotted Govt. accommodation no.699-A, Type-I in Sector-46, Chandigarh to the applicant vide letter dated 05.08.2010 (Annexure A-1). Since the applicant was entitled for Type-II house, he requested for allotment for the same and vide letter dated 21.11.2013, he was allotted Type-II house no.529, Sector-46, Chandigarh. (Annexure A-2). He then surrendered Type-I accommodation and took possession and started residing there. On 11.06.2014, respondent no.2 wrote a letter to respondent no.3 to the effect that Type-II Govt. accommodation allotted to the applicant has been cancelled because he was debarred from taking Govt. accommodation and respondent no.3 was directed to effect

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recovery of license fee amounting to Rs.2,10,483/- for the period 12.08.2010 to 30.06.2014 as damages charges (Annexure A-3). Respondent no.4 vide letter dated 26.6.2014 directed the applicant to deposit the damage charges (Annexure A-4). In view of these letters, the applicant vacated the Govt. accommodation on 30.06.2014.

4. In the grounds for relief, it has inter alia been stated as follows:

- i. The earlier Govt. accommodation allotted to the applicant was cancelled in the year 2008 and respondent no.2 had charged one month's market rent from the applicant. There was no concealment on the part of the applicant at the time of allotment of new govt. accommodation in Sector-46, Chandigarh in the year 2010. Respondent no.2 who is custodian of entire record himself allotted the Govt. accommodation to the applicant in Type-I and later in Type-II.
- ii. Respondent no.2 issued the letter, Annexure A-3, without giving any opportunity of hearing to the applicant while assessing the damage charges from 2010 onwards till 30.06.2014. Respondent no.2 ought to have given opportunity of hearing to the applicant before the issuance of letter Annexure A-3.
- iii. Usually a Govt. servant gets HRA. If he does not avail the Govt. accommodation and if Govt. accommodation is allotted to him, then HRA is stopped. In the instant case, the applicant stopped taking HRA w.e.f. August 2010 when the Govt. accommodation was allotted to him. Now if the respondents claims damage charges from the applicant w.e.f. August 2010 onwards, then respondent no.2 is bound to adjust the amount of HRA which otherwise the applicant was entitled to, had he not availed the benefit of Govt. accommodation.

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5. In the written statement filed on behalf of the respondents it has been stated that a surprise inspection was conducted in quarter no.1753-F, Sector 7C, Chandigarh on 10.08.2008 by the staff of the respondent office and it was reported as a case of subletting. Based on this report, the applicant was given opportunity of hearing and thereafter the competent authority ordered termination of allotment w.e.f. 04.09.2004 with the imposition of the following penalties for contravening the provisions of SR-317-B-21 of the Allotment Rules:-

- i. Terminated the allotment w.e.f. 04.09.2008.
- ii. Declared ineligible for allotment of residential accommodation for remaining period of his service.
- iii. Levy damages (market rate of license fee as fixed by the Government) from the date of termination (04.09.2008) to the date of vacation (07.10.2008).

The applicant concealed these facts and submitted fresh application for allotment of accommodation and in column 16 of the application received on 26.07.2010, had specifically mentioned that he was not debarred from allotment of Government accommodation. He also signed a declaration stating that the particulars furnished by him in the application were correct. The application was registered and the applicant was allotted Type-I Quarter no.699/A, Sector 46-A, Chandigarh. Subsequently, he requested for Type-II accommodation based on his revised entitlement and accordingly he was allotted Type-II Quarter

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no.529, Sector-46, Chandigarh vide allotment letter dated 21.11.2013. He accepted and took possession of this quarter. While submitting the acceptances for Type-I as well as Type-II quarter, he had declared that "I do not stand debarred for a Government accommodation." Action initiated against subletting of Govt. accommodation and imposition of penalty under SR-317-B-21 of the Allotment Rules was noticed at a later date when the competent authority cancelled allotment of Type-I as well as Type-II quarters and damages were charged at market rate from the date of possession to the date of vacation for both the quarters vide office memo dated 16.04.2014 for breach of provisions contained in SR-317-B-21 of the Allotment Rules. The applicant handed over the Govt. accommodation to CPWD on 09.07.2014. The respondent office raised a demand of Rs.2,10,483/- being damages to be recovered from the applicant vide letter dated 11.06.2014. Based on the ibid demand, the AE (Civ), AGE B/R office of AGE BS (AF), Chandigarh instructed the applicant for remittance of the Government dues at the earliest vide letter dated 27.06.2014, impugned in the OA. It has further been stated that the action taken by the respondents is strictly as per statutory provisions contained in the Allotment of Government Residences (General Pool in Delhi) Rules, 1963. These Rules have been extended

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mutatis mutandis to Government allotment of General Pool Residential Accommodation of other stations including the Chandigarh.

6. Arguments advanced by the learned counsel for the parties were heard. Learned counsel for the applicant did not dispute the content of the written statement. However, he pressed that no show cause notice was issued to the applicant before cancelling the allotment in respect of Type-II quarter. He also stated that if the damages were to be recovered from the applicant on account of cancellation of the allotment of Government accommodation then at least HRA should be allowed in favour of the applicant.

7. Learned counsel for the respondents stated that it was very clear from the material on record that the applicant was aware of his debarment for allotment of Government accommodation since it was stated as follows in memo no.AEM/CH/1(1)08/1753F/CB/4068-70 dated 04.09.2008 issued to the applicant:-

"The license fee of the said quarter will stand terminated with effect from the dates of issue of this Memo. She/he is declared to be in-eligible for the allotment of residential accommodation for remaining period of his/her service and be charged damages from the date of issue of this Memo to the date of vacation of said quarter."



Hence at a later stage when the applicant recorded in his application for allotment of Government accommodation that he had not been debarred from the allotment of Government accommodation, this was a false declaration and the applicant did not deserve any sympathy.

8. We have carefully considered the pleadings of the parties, material on record and the arguments advanced by learned counsel. The department's file regarding this matter has also been perused. The content of the memo dated 04.09.2008 issued to the applicant makes it amply clear that on account of subletting, the applicant would be ineligible for allotment of Govt. accommodation for remaining period of his service and he would be liable for damages also on this account. In the applications for allotment of General Pool Residential Accommodation, in the Form no.28804, which is signed by the applicant himself, column no.15 reads "Are you debarred from allotment of Govt. residence?" and the applicant has marked "No". A similar declaration has been made in the application for Type-II quarter of which the registration number is 99893029. Hence the applicant had knowingly suppressed the facts regarding his debarment from allotment of Govt. accommodation during his service and hence there is no illegality in the order issued by the respondents cancelling allotment of Government

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accommodation in favour of the applicant and ordering recovery of Rs.2,10,483/- as damage charges w.e.f. 12.08.2010 to 30.06.2014.

9. Regarding the claim of the applicant for HRA if he does not avail Government accommodation on account of cancellation, no reply has been filed on behalf of the respondents. Hence while there is no ground for interference regarding letters dated 11.10.2014 and 27.06.2014 (Annexure A-3 and A-4), the respondents may examine the issue as to whether HRA for the period 12.8.2010 to 30.6.2014 can be allowed in favour of the applicant.

10. The O.A. is disposed of with these observations.

B. A. Agrawal
(DR. BRAHM A. AGRAWAL)
MEMBER (J)

Rs—
(RAJWANT SANDHU)
MEMBER (A)

Place: Chandigarh.

Dated: 19/3/2015.

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