

**Central Administrative Tribunal
Principal Bench, New Delhi**

OA No. 1525/2013

This the 6th day of September, 2016

**Hon'ble Mr. V. Ajay Kumar, Member (J)
Hon'ble Mr. K.N. Shrivastava, Member (A)**

Sub Inspector Tariq Ali Khan, Age 56 years
S/o Late Sh. Tareeq Ahmed Khan
R/o Qtr.No.J-7, Type-III, Police Colony,
Model Town-II,
Delhi. Applicant

(By Advocate: Shri Sourabh Ahuja)

Versus

1. Govt. of N.C.T.
Through Commissioner of Police,
Police Head quarters, I.P. Estate,
New Delhi.
2. Deputy Commission of Police,
Special Branch
Through Commissioner of Police,
Police Head quarters, I.P. Estate,
M.S.O. Building, New Delh.
3. Deputy Commissioner of Police,
General Administration, Delhi
Through Commissioner of Police,
Police Head quarters, I.P. Estate,
M.S.O. Building, New Delhi.
4. Additional Commissioner of Police,
General Administration, Delhi
Through Commissioner of Police,
Police Head quarters, I.P. Estate,
M.S.O. Building, New Delhi. Respondents.

(By Advocate: Shri Vijay Kumar Pandita)

ORDER(ORAL)**By Hon'ble Mr.V. Ajay Kumar,M(J)**

The applicant while working as Sub Inspector in Delhi Police was dismissed from service in view of his conviction and sentence in a criminal case under Section 384 IPC and 12 of Passport Act in FIR No.433/1998 PS IGI Airport Delhi, vide Annexure A-7 order dated 09.1.2008. The statutory appeal preferred by the applicant was dismissed vide Annexure A-8 appellate order dated 26.03.2008.

2. Seeking quashing of the said dismissal and appellate orders, the applicant preferred OA-747/2008 before this Tribunal. This Tribunal while issuing notice in the said OA vide its interim order dated 07.04.2008 (Annexure/9) ordered that if the applicant has been allotted the Govt. accommodation he should not be evicted therefrom. In pursuant to the said order, the applicant continued in the govt. accommodation. The said OA finally dismissed vide order dated 12.12.2011 (Annexure A-10). The Hon'ble High Court in Writ Petition(C)No.94/2013 filed by the applicant while setting aside the said order dated 12.12.2011 in OA-747/2008 of the Tribunal, remanded the O.A.No.747/2008 to the Tribunal for fresh adjudication, vide its order dated 08.01.2013 (Annexure-12). However, after fresh hearing again the OA-747/2008 was dismissed by this Tribunal on 11.09.2014.

3. In view of the dismissal of the applicant from service and thereafter dismissal of the OA-747/2008 filed by the applicant, the respondents vide Annexure A-6 dated 10.02.2011 directed the applicant to vacate the Govt. accommodation failing which further action under Section 27(2) of

Delhi Police Act, 1978 shall be taken against the applicant. The relevant part of the said order reads as under:

"Consequent upon the dismissal of Tariq Ali Khan, Ex.SI No. D/3264 on 09/01/2008 the allotment of the above Govt. qtr was cancelled from his name w.e.f. 10/01/08 and allowed him to retain the said qtr. for one month up to 09/02/2008 vide this Hdqrs. order No.7764-67/QAC-IV/PHQ dt. 20/02/2008. He filed an appeal to Jt.C.P./S.B. Delhi against the dismissal order and he was permitted to retain the qtr till the decision of his appeal on the payment of double licence fee i.e. Rs.434/- P.M. vide memo No.8854/QAC-IV/PHQ, dt. 12/03/2008. The appeal was also rejected by the appellate authority vide order No.165-192/P.Sec/Jt.CP/SB, dt.26/03/2008. He filed an O.A.No.747/2008 in the Hon'ble C.A.T. and notice was issued to the department that he should not be evicted there from vide their notice dt. 07/04/2008. Hence, the Ex SI was allowed to retain the said Qtr till the finalization of the OA vide memo No.10124/QAC-IV, dt. 16/04/08. Now, the O.A. has been dismissed vide the judgment of Hon'ble CAT dated 10/01/2012 received in this Hdqtrs. from DCP/Spl. Branch office memo No.404/HAP (P-I)/SB, dt. 23/012012. Hence, he is liable to pay the double licence fee @ Rs.434/- P.M. w.e.f. 10/022008 to 26/03/2008 and Market rent @ Rs.8160/-P.M. w.e.f. 27/03/2008 to the dt. of vacation the qtr. as per provision of S.O. No.03/2010. As such he was required to vacate the above said qtr. Immediately, but the same has not been vacated by him so far and still residing therein unauthorizedly."

4. The applicant preferred a representation against the said order seeking to permit him to retain the Govt. quarter till the criminal Revision Petition filed by him against his conviction is finalized by the High Court, however, the respondents issued the impugned Annexure A-1 dated 06.02.2013 followed by Annexure A-2 order dated 11.2.2013 rejecting his request and for his eviction and also for payment of an amount of Rs. 4,67,114/- being the double licence fee from 09.02.2008 to 23.03.2008

@ Rs.434/- p.m. i.e., Rs.678/- and market rent from 27.03.2008 to 31.12.2012 @ Rs. 8160/- p.m. i.e., Rs.4,66,436/-.

5. Learned counsel for the applicant Shri Sourabh Ahuja submits that though the applicant was dismissed from service on 09.01.2008 the respondents themselves permitted the applicant to retain the govt. accommodation till 09.02.2008, and when the statutory appeal against the dismissal order was pending, applicant was allowed to retain govt. quarter till the decision of the appeal on the payment of double licence fee for Rs.434/- p.m. The statutory appeal was rejected on 26.03.2008. The Tribunal vide its interim order dated 07.04.2008, directed the respondents not to evict the applicant from the govt. accommodation in question. Though the OA-747/2008 was initially dismissed on 12.12.2011, however, vide order dated 08.01.2013 in WP(C) No.94/2013, the Hon'ble Delhi High Court remanded the OA-747/2008 to the Tribunal and accordingly the same was restored to its original number and the same was again dismissed on 11.09.2014.

6. Accordingly, the learned counsel for the applicant submits that as on the date of the interim order of this Tribunal dated 07.04.2008 in OA-747/2008, the applicant was required to pay the double licence fee of Rs.434/- p.m. andhence the applicant is liable to pay the same till the OA-747/2008 was finally disposed of on 11.09.2014 and thereafter only he is liable to pay the market rate of rent.

7. On the other hand, Shri Vijay Kumar Pandita, learned counsel for the respondents submits that the applicant was dismissed from service on 09.01.2008 on the ground of his conviction in a criminal case and hence, the applicant is not entitled to retain the govt. quarter even for asingle

day after his dismissal. However, the respondents initially permitted the applicant to retain the quarter till 09.02.2008 and thereafter on payment of double licence fee of Rs.434/- p.m. till 26.03.2008, i.e. till the disposal of the statutory departmental appeal. Retention of the govt. accommodation by the applicant beyond the said date i.e. from 27.03.2008 is to be treated as unauthorized occupancy and is liable to pay the market rate of rent as per rules. Once O.A. is dismissed, any benefit enjoyed by the applicant, due to the interim orders in the O.A. during its pendency, deemed to have been withdrawn ante, and hence applicant is liable to pay market rate of rent from 27.03.2008 to till vacation of the quarter.

8. Admittedly, the applicant is liable to pay the double licence fee from 09.02.2008 to 26.03.2008 @ Rs.434/- p.m. However, in respect of his liability to pay the market rate of rent from 27.03.2008 to till the date of vacating the accommodation, the applicant submits that since he continued in the accommodation till 11.09.2014, i.e. the date of final disposal of the OA, under the protection of interim orders passed in the OA, he is required to continue to pay the double licence fee @ Rs.434/- p.m. till 11.09.2014 and only from 12.09.2014 onwards he is liable to pay the rent on market rate till vacation of the quarter.

9. Once the O.A. is dismissed, all the orders passed during the pendency of the O.A., deemed to have been vacated, unless specifically stated otherwise, while dismissing the O.A. Though the retention of the quarter by the applicant was not the issue involved in O.A.No.747/2008, this Tribunal as an interim measure, directed the respondents not to evict the applicant. Though the O.A. was once dismissed, but the same

was restored to its original file and finally dismissed on 11.09.2014, on which date it can be said that the interim order is finally vacated. Hence, in the peculiar circumstances of the case, we are of the view that the ends of justice will be meet if the retention of the quarter of the applicant from 27.03.2008 to 11.09.2014 shall have to be regulated by charging the same rate as was applicable to him on 26.03.2008. However, from 12.09.2014 to till the date of vacation, he is liable to pay the market rate of rent as per rules.

10. The continuation of the applicant after 11.09.2014 in the govt. quarter is unauthorized occupation and is liable to pay market rent till he vacate the quarter in addition to any other civil or criminal action to be taken by the respondents, as per rules. At this stage, learned counsel for the applicant, on instructions from the applicant who is present in the court, prays to permit the applicant to retain the quarter for six more months on payment of market rate of rent in view of his family difficulties and also submits that the GPF dues payable to the applicant on his dismissal are still lying with the respondents, since the applicant has not claimed the same till date and the respondents may adjust the same for the dues payable by the applicant.

11. In the aforesaid peculiar circumstances, the OA is disposed of with the following directions:

- (1) The applicant shall vacate the govt. quarter on or before 31.12.2016.
- (2) The respondents shall recalculate the amount payable by the applicant from 09.02.2008 to 11.09.2014 @ Rs.434/- p.m. being the double licence fee and from 12.09.2014 to till 31.12.2016 at

the market rate of rent, as per rules, and shall adjust the G.P.F. amount of the applicant against the said recalculated due and inform the said details to the applicant.

- (3) The applicant shall co-operate with the respondents by completing the formalities, if any, to adjust the GPF amount as above, and also shall pay the amount, if any, still due, even after adjusting the GPF amount.
- (4) If the applicant failed to vacate the quarter or to pay the recalculated dues on or before 31.12.2016, the respondents shall be at liberty to proceed against the applicant, as per rules, including by initiating any civil or criminal action.

12. No costs.

(K.N.Shrivastava)
Member(A)

(V. Ajay Kumar)
Member(J)

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