

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

OA 2572/2013

Reserved on: 04.08.2016
Pronounced on: 11.08.2016

HON'BLE MR. V.N.GAUR, MEMBER (A)

Sh.V.B.Pandey,
S/o Late Sh.K.D.Pandey,
R/o D-103, DDA Flat,
Signature View Apartment,
Mukherjee Nagar,
Delhi-110009.

... Applicant

(By Advocate: Mr. Rajeev Kumar)

VERSUS

1. Government of NCT of Delhi
Through its Chief Secretary,
5th Level, 'B-Wing', Delhi Secretariat,
New Delhi.
2. Principal Secretary,
Govt. of NCT of Delhi,
Public Works Department,
5th Level, 'B-Wing', Delhi Secretariat,
New Delhi.
3. Secretary Land & Building,
Govt. of NCT of Delhi,
Public Works Department,
5th Level, 'B-Wing', Delhi Secretariat,
New Delhi.
4. Pay and Account Officer,
5th Level, 'B-Wing', Delhi Secretariat,
New Delhi.
5. Principal Pay and Account Officer
(Pension) Trikoot-2, Bhikaji Cama Place,
New Delhi-110066
6. Manager, State Bank of India,
Centralized Pension Processing Centre,
Chandni Chowk, Delhi-110006. ... Respondents

(By Advocate: Ms. Sangeeta Rai)

ORDER

The applicant has filed this Original Application challenging the impugned letter dated 14.06.2013 issued by Central Pension Accounting Office for the recovery of amount of Rs.9,43,926/- from 'dearness relief of pension' by the Bank on account of unauthorized occupation of Government accommodation No.10/16 EAC Flat, Rajpur Type-V by the applicant. The applicant was Legal Advisor-cum- Standing Counsel in Land and Building Department under the Delhi Government from 12.05.2005 till his superannuation on 30.11.2008.

2. The learned counsel for the applicant submitted that while working as Legal Advisor with the respondents, the applicant was allotted the aforementioned flat with the intervention of the Hon'ble High Court vide order dated 12.05.2005. He continued to occupy the official accommodation till 31.10.2012, despite the Rules that an allottee can retain the Government accommodation for a period of eight months after retirement. However, the applicant disputes the amount of Rs.9,43,926/- worked out by the respondents as the arrears of licence fee/damage charges/market rent for the period 25.07.2005 to 31.10.2012. Though the applicant has not submitted his own calculation of the amount that he is liable to pay to the respondents, he has pointed out that the respondents had not taken into account amount paid by him as rent and water charges for certain unspecified period. The learned counsel for the applicant vehemently argued that the respondents have wrongly calculated the outstanding amount and raised a demand of an exorbitant amount. He further submitted that the respondents have not given any detailed break up of the recovery ordered by them in the impugned order.

3. The learned counsel for the respondents, on the other hand, contested the submission of the learned counsel for the applicant stating that before

occupying Rajpur Road flat, the applicant was in occupation of a Type-IV accommodation at Gulabi Bagh, Delhi. He continued to occupy that house even after taking possession of the Rajpur Road flat. He has, therefore, become liable to pay market rent/ water charges amounting to Rs.46,414/-, towards unauthorized occupation of that flat. The breakup of the demand has also been given in the counter filed by the respondents. It was also submitted that the applicant continued to occupy the Rajpur flat much beyond the permissible period after the retirement as per the rules and, therefore, he was liable to pay licence fee/damage charges/market rent as per the demand raised by the Accounts Department. She further submitted that in case the applicant has already paid rent or water charges for certain periods, the respondents will look into the matter and make necessary adjustments if that is in order. Learned counsel also stated that the applicant has never submitted any representation giving his calculation of the outstanding amount and the rent paid by him which could be examined by the respondents.

4. I have heard learned counsels and perused the record.

5. It is an admitted fact that the applicant was in occupation of a Type-V EAC flat at Rajpur Road from 25.07.2005 to 31.10.2012. It is also admitted by the learned counsel for the applicant that the applicant was an unauthorized occupant of that flat for the period beyond 8 months from the date of his superannuation. The applicant is willing to pay the licence fee/damage charges/market rent for that period in accordance with the rules. The only dispute is with regard to the quantum of outstanding dues, which according to the respondents is Rs.9,43,926/- but the applicant has not placed any calculation on record indicating what this amount should be according to him. The applicant also claims that he has cleared the rent and water charges for certain periods which is included in the period of

unauthorized absence but has not placed any details on record. The applicant retained his earlier type-IV accommodation at Gulabi Bagh for more than four months even after taking possession of the flat at Rajpur Road and the respondents had charged penal rent for that period. The applicant, on the other hand, has disputed the statement that he had occupied the Gulabi Bagh accommodation as alleged in the counter reply.

6. From the facts narrated above, it is clear that the applicant has not made any detailed representation stating all his grounds to the respondents which could be examined by the respondents on merits. Learned counsel for the respondents has fairly submitted that if such a representation is made, the respondents shall examine that, keeping in mind the relevant rules. Under Section 21 of the Administrative Tribunals Act, 1985 also an applicant has to exhaust all the remedies available to him/her before approaching this Tribunal.

7. In view of these facts and circumstances, the OA is disposed of with a direction to the applicant to make a comprehensive representation to the respondents within a period of two weeks and the respondents shall decide that representation within a period of three months from the date of receipt of that representation. Needless to say, the applicant will have liberty to approach this Tribunal if the grievance of the applicant still subsists.

(V.N.Gaur)
Member (A)

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August 11, 2016