

Central Administrative Tribunal Principal Bench, New Delhi

O.A.No.100/1892/2014

Wednesday, this the 24th day of August 2016

Hon'ble Mr. P.K. Basu, Member (A)

Mr. Yogendra Sharma
s/o late Mr. M L Sharma
aged about 58 years
Presently posted as SAO
Deputy Director, E1C (Legal)
E-in-C Branch, New Delhi
r/o C-82/21, Mohan Puri
Maujpur, Delhi – 53

.. Applicant

(Mr. Nilansh Gaur and Ms. Himantika, Advocates)

Versus

1. Union of India through its Secretary
Ministry of Defence
South Block, New Delhi – 1
2. The Engineer-in-Chief
Military Engineering Services
Integrated Headquarter of
Ministry of Defence (Army)
Kashmir House, Rajaji Marg
New Delhi -11
3. The Director General (Pers.)/E1C (Legal)
Military Engineering Services
Integrated HQ of MOD (Army)
Engineer-in-Chief Branch
Kashmir House, Rajaji Marg
New Delhi -11

..Respondents

(Mr. Rajeev Kumar, Advocate)

O R D E R (ORAL)

Heard the learned counsel for the parties.

2. The applicant initially prayed for setting aside the transfer order dated 08.05.2014 whereby he was transferred from HQ CE, Lucknow Zone

to SAW, E-in-C's Branch, Delhi. Now that has become infructuous because the applicant has already retired on superannuation on 31.01.2016. However, his second prayer was to regularize his stay in the government accommodation at Lucknow.

3. The respondents have given him a notice to vacate the accommodation on 04.07.2013 rejecting his representation to retain the accommodation on the ground of education of his child.

4. When the matter came up before this Tribunal on the first date, i.e., on 28.05.2014, this Tribunal had directed that the applicant shall not be forced to vacate the accommodation at Lucknow. In the order dated 09.04.2013, it was made clear to the applicant that he has been declared as illegal occupant since 01.05.2013 and he was directed to deposit the double assessed/demurrage rent as applicable up to 30.04.2014.

5. The prayer of the applicant today is that the period from 01.05.2013 till the date of vacation of accommodation, he may be charged only licence fee and not the double assessed/demurrage rent, as has been demanded by the respondents.

6. While I agree that the Tribunal on the first date had directed that the applicant shall not be forced to vacate the accommodation, but there was no order as to what rent will be charged from the applicant. I am not convinced with the argument put-forth by learned counsel for applicant that the respondents should charge only the licence fee. Once the respondents have clearly communicated to the applicant vide their letter dated 09.04.2013 that he has been declared as illegal occupant since

01.05.2013 and liable to pay the double assessed/demurrage rent as applicable up to 30.04.2014, the respondents have to act according to the Rules, as it was applicant, who did not vacate the accommodation despite repeated applications. He has taken full advantage of this litigation to avoid moving from Lucknow to Delhi and subsequently retired from Lucknow.

7. The O.A. is accordingly disposed of with a direction to the respondents to charge the rent strictly according to the Rules and, if required under the Rules, he may be charged the double assessed/demurrage rent. No costs.

(P.K. Basu)
Member (A)

August 24, 2016
/sunil/