

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

ORIGINAL APPLICATION NO.170/00488/2017

DATED THIS THE 16th DAY OF FEBRUARY, 2018

HON'BLE DR. K.B. SURESH, MEMBER(J)

HON'BLE SHRI PK.PRADHAN MEMBER(A)

Smt. Jaya,
W/o Thimmarayappa,
Aged about 64 years,
Retired Skilled Support Staff Grade-I,
Indian Institute of Horticultural Research (ICAR)
Hessaraghatta,
Bengaluru-560 0089.
R/o IIHR Staff Quarters,
Hessaraghatta,
Bengaluru-560 0089.

...Applicant

(By Advocate Shri Vishnu Bhat)

V/s.

1.Union of India
Represented by its Secretary,
Ministry of Agriculture,
Krishi Bhavan,
New Delhi – 110 001.

2.The Director,
Indian Institute of Horticultural Research
Hessaraghatta,
Bengaluru-560 0089.

...Respondents

(By Shri B.A. Chandrashekhar, Counsel for R-2)

ORDER (ORAL)

HON'BLE DR. K.B. SURESH, MEMBER(J)

1. Heard. Apparently, ICAR had issued an order No. F.No.3-80/13=Estt-24245 dated 16.2.2015 as follows:-

“With reference to the request dated 24.12.2014 seeking permission for retaining staff quarters Type-II 33G. The Competent Authority is pleased to permit Smt Jaya, Ex-Skilled support Staff for retaining the above quarters as a special case subject to payment of rent of RS.2500/- plus electricity and water charges separately until further orders after clearing the dues, if any as on date.”

2. This order was placed before the Finance and Accounts Officer, AAO (C&B) Section, Chairman Works, IIHR, Bengaluru and Guard File. The reason, apparently, is that so many Quarters are now lying vacant and therefore, no harm will be caused, if, the applicant stays in Quarters for some more time after her retirement. Vide this she was charged a rent of Rs.2500/- plus Electric Charges and Water Charges until further orders. Now the case raised by the respondents is that she was asked to vacate 8 times and she did not do so. Apparently, the applicant is a Casual Labourer who had to stay there and in respect of this an order seemed to be issued vide F.No..6-C&B/1550/2004/9214 dated 24/28.8.2004 which we now quote as it is:-

“Sanction of the Competent Authority is hereby conveyed under Rule No.12(1) (a) of G.P.F. Rules for grant of temporary advance of Rs.9058/- (Rupees Nine thousand fifty eight only) to Shri./Smt./Jaya, Casual Labourer from her GPF Account No.IIHR-1550 to enable her to defray expenses in connection with MEDICAL TREATEMENT FOR HER DAUGHTER.

2. The advance will be recovered in ... monthly instalments of Rs.... each commencing from the salary for the month of ... payable in....

3. A sum of Rs.6342/- (Rupees Six Thousand three hundred forty two only) sanctioned in and paid to her vide sanction order No. F.No..3-C&B dt. Has not been recovered as on date. The amount together with the advance now sanctioned aggregating to Rs.15400/- each recovered in 22 monthly instalments of Rs.700/- each commencing from the salary of 9/2004 payable in 9/2004.”

3. Therefore, the reason for her to stay was for medical treatment of her daughter. Thereafter, a note seems to be issued as F.No.IIHR/C&B/2015-16/Qr.Altt/29269 dated 16.2.2017, we quote from it:-

“With reference to this office circular No.F.4-1025/2015/ESTT/25117 dated 09.01.2017 Smt Jaya, Ex-Skilled Supporting Staff was staying in Quarters Type-II 33G from Dec.2014 to May 2016 and Qr. No. Type-1 27(G) from 2016 to and

continued to stay till to date and she has to pay a sum of Rs. 94192/- towards Rent/ Electricity/ Water charges calculated up to 31.01.2017 as detailed below:

Month	Rent	Electricity charges	Water charges	Total	Remarks
Jul-14	1740	Nil	13	1753	Type-II-Qr.
Aug-14	2500	Nil	13	2513	
Sep-14	2500	Nil	13	2513	
Oct-14	2500	Nil	13	2513	
Nov-14	2500	Nil	13	2513	
Dec-14	2500	650	13	3163	
Jan-15	2500	620	13	3133	
Feb-15	2500	465	13	2978	
Mar-15	2500	892	13	3405	
Apr-15	2500	1031	13	3544	
May-15	2500	861	13	3374	
Jun-15	2500	954	13	3467	
Jul-15	2500	702	13	3215	
Aug-15	2500	964	13	3477	
Sep-15	2500	1088	13	3601	
Oct-15	2500	758	13	3271	
Nov-15	2500	815	13	3328	
Dec-15	2500	707	13	3220	
Jan-16	2500	625	13	3138	
Feb-16	2500	887	13	3400	
Mar-16	2500	897	13	3410	
Apr-16	2500	1049	13	3562	
May-16	2500	916	13	3429	
Jun-16	1945	651	8	2604	Type-I.Qr.
Jul-16	1945	942	8	2895	
Aug-16	1945	985	8	2938	

Sep-16	1945	917	8	2870	
Oct-16	1945	671	8	2624	
Nov-16	1945	856	8	2809	
Dec-16	1945	813	8	2766	
Jan-17	1945	813	8	2766	
			TOTAL	94192	

4. Therefore, from which they have come to a conclusion that a total amount of Rs.94192/- to be paid by the applicant till 31.1.2017.

5. The learned counsel on instructions from the Chief Administrative Officer indicates that but then they have a memorandum with them which indicates that damages at the rate of 160% and for a Type I Quarter 40 times the normal rent will be payable and therefore, now the entire gratuity and all other arrears will be wiped off and the respondents are claiming extra amount from the applicant.

6. **In the first place nobody had the authority to allow her to retain the Quarter beyond the admitted time in statute, but for whatever reasons the respondents have done so. Having done so, there is no way for them to penalize the applicant for it.** Therefore, we hereby hold that they can take the rent from the applicant at the rate of Rs.2500/- plus Electric Charges and Water Charges till the end of this month to be calculated and balance amount of DCRG will be payable to her. **She herself will vacate the Quarters within one week.** If, she does not do so, without ceremony and without any further notice, the respondents will have the authority to eject her from the Quarters. The

ejectment expenses of Rs.One lakh will be charged from the applicant. For which the applicant orally undertakes through Shri Vishnu Bhat, learned counsel.

7. Actually, the respondents now claim that they had issued a notice, but the fact remains that they had no power to allow any one to occupy the government Quarters. From the record produced by the respondents we found that on 16.5.2016 she was allowed to vacate Type II Quarter which was occupied by her and occupy Type I Quarter. All of which are beyond the powers and jurisdiction of the respondents. **But we will now for humanity sake conclude that they did so with an good intention.** Therefore, we will not tax them further even though what is lost is the money belonging to general public. We will also take into account that when many Quarters are lying vacant, there is no point in not allowing an employee to use it so we will take an lenient attitude and will direct the applicant to vacate the Quarters within one week and a week after that the whole DCRG amount must be settled by the respondents. If, she does not do so within one week, the respondents will be eligible to deduct Rs.One lakh as ejectment cost from the applicant. OA is disposed of. No order as to costs.

(PK.PRADHAN)
MEMBER(A)

bk.

(DR. K.B. SURESH)
MEMBER(J)

Annexures referred to by the Applicant in OA.No.488/2017

Annexure A-1: Copy of the Memorandum dated 18.8.1993.

Annexure A-2: Copy of the Memorandum dated 18.2.2002.

Annexure A-3: Copy of the Memorandum dated 20.7.2009.

Annexure A-4: Copy of the Office Order dated 31.10.2013.

Annexure A-5: Copy of the Office Order dated 26.8.2016.

Annexure A-6: Copy of the Certificate dated 19.9.2016.

Annexure A-7: Copy of the Office Note dated 19.9.2016.

Annexure A-8: Copy of the representation dated 22.11.2016.

Annexures referred to by the Respondents in the Reply Statement

Annexure R-1: Copy of IIHR Office vide order No.110-16/94-Admn-16972 dated 14.3.1995.

Annexure R-2: Copy of OM No.51016/2/90 Estt(c) dated 10.09.1993
Temporary Status and Regularization of casual workers.

Annexure R-3: Copy of Memorandum dated 20.07.2009 with duty report of applicant.

Annexure R-4: Copy of Withdrawal of NPS by the applicant dated 04.06.2014.

Annexure R-5: Copy of Office order for constituting a Committee to vacate the applicant along with office note.

.....

