

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH AT BANGALORE

ORIGINAL APPLICATION NO.170/00508/2017

DATED THIS THE 27TH DAY OF JULY, 2018

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

Sri B. Basava Raju, 56 years,
S/o Late Sri Basavaiah,
Assistant Director,
Sports Training Centre,
Sports Stadium, Akkayya Palem,
Visakhapatnam:530 024

With residential address as
Staff Quarter No. 27,
Sports Authority of India,
Netaji Subhash Southern Centre,
Mysuru Road, Jnanabharati Campus,
Bengaluru: 560 056

...Applicant

(By Advocate Shri.P.A. Kulkarni)

Vs.

1. Union of India,
To be represented by its Secretary,
Ministry of Youth Affairs & Sports,
Shastri Bhavan,
New Delhi – 110 001.

2. Director (Personnel),
Sports Authority of India (SAI),
Jawaharlal Nehru Stadium Complex (East Gate),
Lodhi Road,
New Delhi – 110 003.

3. The Regional Director,

Sports Authority of India,
Netaji Subhash Southern Centre,
Mysuru Road, Jnanabharati Campus,
Bengaluru: 560 056

...Respondents

(By Shri J. Hudson Samuel, Counsel for Respondent No.2&3)

ORDER (ORAL)

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

Heard. The applicant while working at Bangalore was transferred to Vishakapatnam where there was no quarters available. He did not avail HRA but requested for permission to continue the quarters at Bangalore. Even though the permission was not granted officially, his family was staying there.

2. At this point of time Shri Thimmaiah, learned counsel for the respondents, submits that the reason given by the applicant was his children's education who are apparently at a University level and therefore not coming within the ambit of the Hon'ble Apex Court ruling. However it appears that some others have also sought for this benefit. Since there was vacancies available in the quarters at Bangalore normally in grave situation we would have thought it feasible to allow the applicant also to occupy it but now it is brought out that this quarters were dilapidated and that being so the applicant and several others were also asked to move out of the quarters as they could not guarantee the personal safety of the occupants.

3. Now the question has come as to whether the unauthorized occupation of the quarters will invite penal rent and damages as provided in the rules. The applicant submits that it cannot be so as he had been transferred to Vishakapatnam which comes under the administrative control of the Bangalore

office and there are no quarters available at Vishakapatnam. He had also not taken any HRA from there.

4. But then at this point of time the file relating to several matters is produced by the respondents.

5. It appears that the applicant while working as Office Superintendent had initiated and proceeded with several similar issues in which penal rent and damages were recovered from other similarly situated people. The respondents case now is that if benefit is granted out of special discretion by the Court then it will tantamount to discrimination against others, therefore, he claims that the same treatment which applicant had meted out to others must now visit him in full.

6. When the file was produced we had opened it for the examination of Shri P.A. Kulkarni, learned counsel for the applicant, who had submitted that he had seen all these papers before and mentioned that these things were not available in the file but the factual correctness of this note is not denied by Shri P.A. Kulkarni as we had offered for the signature of his client for him to verify.

7. Now the question is if the applicant while being in station in Bangalore had taken a view that in similar situation damages and penal rent are to be recovered from his colleagues the question which would arise is whether in a counter-clockwise situation can he take a stand which is against the stand which he had taken officially. It would appear that it would be improper for him to do so and he can be estopped from otherwise as every action of an officer carries with it a promise that it is fair, non-arbitrary and non-unilateral. That being so, he must be answerable for his actions and to prevent him from doing so we will be committing an infraction on him as well as one could admit of only correctness in his earlier

order/process earlier that if others had occupied quarters unauthorizedly then they are eligible for being visited with damages and penal rent. Therefore the same situation meets the applicant also. That being so there is no merit in the OA. The files are given back to the learned counsel for the respondents.

8. At this point of time Shri P.A. Kulkarni, learned counsel for the applicant, submits that if at all recovery is to be made it may be made in easy installments. This issue to be decided by the respondents themselves. But there will be a mandate to the respondents to fix the quantum to be paid since the amount is more than 3 ½ lakhs. Let the applicant pay at the rate of Rs.10,000/- or so each but the HRA which he ought to have got would be restored to him in respect of the entire period at Vishakapatnam and this may be adjusted from the amount due from him. But it is stated that if the entire quantum of HRA is adjusted, the remaining may only be at about 1.5 lakhs. Therefore the installment may be modified to that of Rs.5,000/- each month till full amount is paid out.

9. With this direction, the OA is disposed off. No order as to costs.

(DR K B SURESH)
MEMBER (J)

/ksk/

Annexures referred to by the Applicant in OA No.170/00508/2017

Annexure A1 : Copy of representation dated 27.07.2015

Annexure A2 : Copy of letter dated 08.03.2017

Annexure A3 : Copy of office order dated 14.03.2017

Annexure A4 : Copy of note dated 03.04.2017

Annexure A5 : Copy of corrigendum dated 07.04.2017

Annexure A6 : Copy of representation dated 10.04.2017

Annexure A7: Copy of notice dated 01.09.2017

Annexure A8 : Copy of impugned order dated 04.09.2017

Annexure A9 : Copy of representation dated 22.09.2017

Annexures with Reply Statement

Annexure R1: Copy of rules in respect of retention of quarters

Annexure R2: Copy of the Office Memorandum dated 06.12.2012

Annexure R3: Copy of the request dated 27.07.2015

Annexure R4: Copy of the letter dated 10.02.2017 issued by National Projects Construction Corporation Ltd.

Annexure R5: Copy of the Junior Engineer's Note dated 13.02.2017

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