

**CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH, AHMEDABAD.**

OA No.130/2019

This the 02nd day of April, 2019

Shri Alpesh
Son of Shri Mahendrakumar Jayswal
Age : 43 years
Working as Superintendent
In the office of the respondents
Residing at C/8, ESIC Staff Quarter
Ambawadi, Ahmedabad 380 006.
Applicant
(By Advocate : Shri M.S.Trivedi)

VERSUS

1. The Director General
O/o. D.G. Employees State Insurance Corporation
HQ Office, Panchdeep Bhavan
CIG Road, New Delhi 110 002.
2. The Regional Director
O/o. R.D. ESIC
Gujarat Regional Office,
Ministry of Labour & Employment, Govt. of India
Ashram Road, Ahmedabad 380 014.
3. The Medical Superintendent
O/o. M.S. ESIC Hospital,
Ankleshwar 390 002. Respondents.

O R D E R – ORAL

Per : Hon'ble Shri M.C.Verma, Member (J)

Instant OA has been preferred assailing order dated 18.05.2017 of respondent which is Annexure A/1 of the OA.

Learned counsel while pressing OA and giving details of background facts contended that respondents are charging damage rent for period beyond 13.4.2018 and this charging of damage rent is illegal. He urged that applicant has preferred request/ representation dated 25.2.2019 (Annexure A-4) to grant permission for retention of aforesaid quarter but no decision has yet been taken on his representation.

2. Considered the submissions. The background facts as pleaded in the OA are that applicant while 2017 was working as Office Superintendent in the office of the respondent No.3 was allotted Staff Quarter No.C-8, Old Vasna Colony, Ahmedabad.

That he was transferred from Ahmedabad, and was relieved on 13.4.2017. That applicant, vide representation dated 08.5.2017, Annexure A/2 made request to allow him to retain afore-said staff quarter and vide order dated 18.05.2017 (Annexure A/1, impugned in OA) he was allowed to retain the quarter. That he challenged his transfer before the Tribunal by way of OA No.446/2017 and his said OA was disposed of vide order dated 11.01.2019 directing the respondents to consider his representation dated 17.4.2017 within time stipulated in the Order. That after disposal of his OA, qua transfer, he made request/ representation dated 25.02.2019 (Annexure A/4) to retain aforesaid quarter beyond the permission period. Hence is the OA.

3. Fourfold prayer, as has been set out in the OA reads : “

(A) That the Hon'ble Tribunal be pleased to allow this petition;

(B) That the Hon'ble Tribunal further be pleased to hold/declare

that the ex-facie, illegal, arbitrary and unjust action/ decision on the part of the respondents conveyed vide communication No.G/Constu/1/9/C-8/77 dated 18.5.2017 (Annexure A-1) issued by the Respondents regarding treating the retention of staff quarter No.C/8/Old Vasna Colony, Ahmedabad beyond period of 13.4.2018 as unauthorised and charging damage rent from the applicant, despite applicant's request dated 25. 2.2019 on medical ground of dependant mother, age 70 years and not allotted/ provided Government accommodation at the transferred place, is nullity in the eyes of law; (C) That the Hon'ble Tribunal further be pleased to quash and set aside the impugned action on the part of the respondents not considering the request of the applicant dated 25.2.2019 and charging the request of the applicant dated 25.2.2019 and charging damage rent from the applicant for the said staff quarter after 14.4.2018; (D) Such

other and further relief/s as may be deemed just and proper in view of the facts and circumstances of the case may be granted.

4. Annexure A/1 (which has been impugned) as available on the record only shows that applicant has been allowed to retain Staff Quarter No.C-8, Old Vasna Colony, Ahmedabad from 14.4.2017 to 13.6.2017 on the basis of normal license fee, from 14.6.2017 to 13.12.2017 on double of normal license fee and from 14.12.2017 to 13.4.2018 on double of normal license fee and no HRA. It is silent about damage rent.

5. It has been only been set out in prayer portion of the OA that treating retention, beyond period of 13.4.2018 as unauthorised damage rent, inspire of representation dated 25/2/19 of applicant is charged. Request/ representation dated 25.02.2019 (Annexure A/4) having request to allow to retain aforesaid quarter beyond the permission period and no where it is there in it also that damage rent is being charged. There is no substantial

material on record to illustrate that any damage rent has been ordered or are charged nor specific pleading to that effect is there. Further applicant made representation 25.02.2019 and instant OA was preferred on 28.3.2019 i.e. after about 31-32 days of request/ representation. If for non decision on representation dated 25.02.2019 is construed as cause of action, the same could arise, under Section 20 of the Administrative Tribunals Act, 1985 after six months of representation.

6. The OA being devoid of merits is dismissed.

**(M.C.Verma)
Member (J)**

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