

CENTRAL ADMINISTRATIVE TRIBUNAL,  
MUMBAI BENCH, MUMBAI.

O.A.210/00624/2018

Date of decision : June 10, 2019.

Coram: Dr.Bhagwan Sahai, Member (Administrative)  
R.N.Singh, Member (Judicial).

Rajendra,  
Ex-Accountant Member,  
Income Tax Appellate Mumbai  
And Resident of 52, 5<sup>th</sup> Floor,  
C-Block, Hyderabad Estate,  
Opp. Priyadarshini Park,  
PDP, Nepean Sea Road,  
Mumbai - 400 026. .. Applicant.

( In person ).

Versus

1. Secretary,  
Ministry of Urban and  
Housing Development,  
Maulana Azad Road,  
Rajpath Road Area,  
Central Secretariat,  
Near Udyog Bhawan Metro Station,  
Rajpath Area, Central Secretariat,  
New Delhi - 110 001.
2. Directorate of Estate,  
Old CGO Building,  
3<sup>rd</sup> Floor, 101, Maharishi Karvey Road,  
Marine Drive, Mumbai - 400 020.
3. Estate Manager,  
Old CGO Building,  
3<sup>rd</sup> Floor, 101, Maharishi Karvey Road,  
Marine Drive, Mumbai - 400 020. .. Respondents.

( By Advocate Shri B.K. Ashok Kumar ).

O R D E R (O R A L)  
Per : Dr. Bhagwan Sahai, Member (A)

Present.

1. Shri Rajendra, applicant in person.

7. The applicant submits that ordinarily while working as Senior Revenue Service Officer, he could have retired on superannuation on attaining the age of 60 years i.e. w.e.f. 31.07.2016. However, in view of his appointment to the post of Accountant Member, I.T.A.T., he retired on attaining the age of superannuation w.e.f. 14.07.2018 i.e. on attaining the age of 62 years.

8. In the present OA, applicant's grievance is that the respondents no.2 vide its letter dated 19.07.2018 (Anenx A-1) regarding cancellation of allotment of the Government Accommodation, the respondents have indicated his date of retirement w.e.f. 31.07.2014 and date of cancellation of accommodation has been indicated as 31.03.2015. They have mentioned in that letter/order that w.e.f. 01.04.2015 to 30.06.2016, the applicant would be liable to pay damages in respect of the said accommodation at the rate of Rs.1,54,512/- per month.

9. The applicant is further aggrieved of the order/letter dated 10.08.2018 (Annex A-5), issued by the respondents wherein the date of his retirement is shown as 14.07.2018 and the cancellation of allotment of the accommodation to him has been shown w.e.f. 14.10.2018. The said letter also provides that the damages in respect of said Government Accommodation would be Rs.1,54,512/- per month.

	dismissal or removal from service, termination of service or unauthorised absence without permission, compulsory retirement [under CCS (CCA) Rules, 1965) and for non-regular Government servants.	on normal license fee
(ii)	Retirement, voluntary retirement on medical grounds, terminal leave or compulsory retirement [under FR 56(j)], retirement on deputation from ineligible organisations during the initial constitution of such organisation, technical recognition, death of allottee on re-employment (irrespective of retention availed on retirement) and death of an allottee who is not a regular Government servant or deputation outside India.	Six months on normal license fee

12. In the aforesaid facts, the applicant has prayed for the following reliefs:-

"8.1 The applicant prays that the Respondents be directed to allow the applicant to retain the quarter at normal rent till six months from his retirement;

8.2 The applicant prays that the Respondent be directed not to harass the applicant for vacation of quarter till the final outcome of this application;

by the Ministry of Housing and Urban Affairs whereby the para I(g) of the Office Memorandum dated 08.12.2016 bearing No.12035/28/96-Pol.II (Vol.II) regarding retention of accommodation were modified as follows:-

*"The officers re-employed by the ACC to continue in the same post after superannuation for the extended period shall be permitted to continue in the residential accommodation occupied by them till the end of the tenure and they will be further eligible for retention of the said accommodation as per the provisions of rule 40 of the Central Government Pool Residential Accommodation Rules, 2017 on completion of tenure. If officers are re-employed by the ACC in any other post, further retention of the said accommodations as per provisions of rule 40 of the Central Government General Pool Residential Accommodation Rules, 2017 will not be allowed. Further retention of three months only will be granted on completion of tenure of re-appointment."*

15. However, the learned counsel for the respondents does not dispute the fact that the applicant's appointment as Accountant Member, I.T.A.T. has not been made after his retirement voluntarily or otherwise from the service of Government of India. It is also not disputed by the respondents that the applicant while working as Commissioner of Income Tax had applied for the post of Accountant Member, I.T.A.T. and was selected and appointed as such w.e.f. 20.03.2012 (F.N.).

of their OM dated 25.04.2018 (Annex A-10). We also note that the aforesaid OM dated 25.04.2018 came to be notified after the time of appointment of the applicant as Accountant Member, I.T.A.T. Hence, it cannot be interpreted by the respondents to the disadvantage of the applicant.

18. In view of aforesaid, the OA is partly allowed with direction to the respondents to treat the applicant's retention of the aforesaid accommodation up to six months after his retirement as Accountant Member, I.T.A.T. i.e. upto 10.01.2019 on payment of only normal license fee, without laying any damages.

19. In the facts and circumstances, no order as to costs.

(R. N. Singh)  
Member (J)

(Dr. Bhagwan Sahai)  
Member (A)

V.

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15/1/18