

IN THE ARMED FORCES TRIBUNAL, PRINCIPAL BENCH AT NEW DELHI

17.

T.A. No. 34 of 2011

Writ Petition (Civil) No. 2789 of 1999

Ex. Sgt. Madan Pal Singh

.....Petitioner

Versus

Union of India & Ors.

.....Respondents

For petitioner: Mr. Kamal Dave, Advocate.

For respondents: Ms. Jagriti Singh, Advocate.

CORAM:

HON'BLE MR. JUSTICE A.K. MATHUR, CHAIRPERSON.

HON'BLE LT. GEN. Z.U. SHAH, MEMBER.

ORDER

16.01.2012

We have heard learned counsels for the parties.

Petitioner has filed the present petition before the Hon'ble Delhi High Court and it has been transferred to this Tribunal after its formation.

Petitioner vide this petition has prayed that the respondents may be directed by appropriate writ or direction to set aside the impugned order for recovery of damage rate of rent of occupation of Government quarter vide order dated 27.12.1997 and to further direct the respondents to release the salary, arrears etc along with interest illegally retained against the recovery of house rent on market rate. It is also prayed that respondents be directed to pay the damages to the petitioner.

Petitioner was enrolled in the Indian Air Force as Combatant on 09.03.1977 in the trade of Equipment Assistant and since then has dedicatedly and honestly serving this Institution. On 26.06.1991, he was posted from No. 2202 Sqn. to AMSE. During the stay of petitioner at this place, he did all his best. On 07.07.1996, petitioner was posted from AMSE to

5, Airforce Hospital, EAC vide posting order dated 27.02.1996. On 22.06.1996, petitioner moved an application on compassionate ground of education of his children who were studying in Class 10<sup>th</sup>, 11<sup>th</sup> and 5<sup>th</sup> respectively as the eldest son was to appear for Board examination as such any mobility would have caused irreparable loss to his education. That following the consideration of the petitioner, he was granted the permission to retain the Station Married Quarter (SMQ) upto 31.03.1997. Petitioner was allotted with pre-release course with PTDC at Okhla Industrial Estate which commenced from 01.11.1996 upto 31.07.1997. During that period, petitioner moved an application on 12.03.1997 for extension of retention of SMQ on compassionate grounds but this seems to have not been acceded by the authorities and thereafter authorities have charged the petitioner for penal rent at market rate. Hence, petitioner filed this writ petitioner before the Hon'ble Delhi High Court and sought stay of recovery of this penal market rent.

A reply has been filed by the respondents and respondents have pointed out in their reply that the petitioner was allowed to retain the House no. 44/8 on Children Education grounds upto academic year i.e. 31.03.1997. They also pointed out that as per the Air Force Order 6/95, he cannot retain the house beyond 31.03.1997. Therefore, petitioner has been charged with market rent upto 31.08.1997. In this connection, respondents have invited our attention to the Para no. 53 and 53 of the AFO 6/95 which read as under;

"53. An airman must vacate and hand over quarter at the time of his posting out except when specific provision exists for the retention of his quarter by his family. The Unit administration is to ensure that vacant possession of the quarter is taken over from the airman and all dues/damages pertaining to the quarter are recovered from him before he is relieved.

54. In case of failure to vacate the quarter allotted to an airman, on or before the date upto which he was permitted to occupy it as per rules, the following action is to be taken by the administration:-

(a) UABSO is to be informed to raise bill for charging damage for the quarter from the date an airman is ineligible to retain the quarter. Other allied charges will be over and above the damages recovered for the unauthorized occupation.

(b) Disciplinary action is also to be taken against the airman."

It is further pointed out that request of the petitioner to retain the house was declined vide letter of 01.10.1997 as there is no such provision in the AFO 6/95. Then he was also given interview and he was told very categorically that it will not be possible to extend the retention of his accommodation. It was also told that it cannot be extended on compassionate ground and no further extension can be granted.

We have heard learned counsel for the parties and perused the record. Since the petitioner was already given extension upto 31.03.1997, there was no provision in the law to extend his retention of the house. Once he has been given accommodation on compassionate ground upto 31.03.1997, it cannot be further extended as there is no such provision bearing on the subject. This is a common phenomenon that the people who occupy the government accommodation, they do not vacate it despite the fact that they are retiring or being posted out. In the present case, we are satisfied that authorities acted properly and there is no illegality in asking the petitioner to pay market rent for retention of accommodation beyond the extended period i.e. 31.03.1997. We are satisfied that no illegality has been done with the petitioner. The other benefits of the petitioner which have been detained on account of payment of the market rent may be released to him forthwith.

Hence, there is no ground to interfere in the present petition. The petition is accordingly dismissed. No order as to costs.

**A.K. MATHUR**  
(Chairperson)

**Z.U. SHAH**  
(Member)

New Delhi  
January 16, 2012  
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