

**MAHARASHTRA ADMINISTRATIVE TRIBUNAL**  
**NAGPUR BENCH NAGPUR**  
**ORIGINAL APPLICATION NO. 667/2015.**

Shri Sunil Nagesh Rao Jadhav,  
Aged about 59 years,  
R/o New Narasala Road, Plot no.108,  
Nagpur. ----- **Applicant.**

**Versus**

The State of Maharashtra,  
Through its Secretary,  
Department of Home Ministry,  
Mantralaya, Mumbai

2. The Director General of Police,  
Maharashtra State, Mumbai.
3. The Commissioner of Police, Nagpur  
City, Nagpur.
4. The Superintendent of Police ( Rural )  
Nagpur.
5. The Deputy Superintendent of Police  
( Rural ) Nagpur. ----- **Respondents.**

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1. Shri G.G. Bade, Advocate for the applicant.
  2. Shri S. Khadatkar, Presenting Officer for the  
Respondents.

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**CORAM : R.B. Malik: Member ( J )**

**DATE : 17<sup>th</sup> February, 2017**

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**ORDER**

This O.A. under Section 19 of the Administrative Tribunals Act, impugns the order dtd. 8/10/2015 whereby post retirement the applicant was called upon to pay an amount of Rs.2,58,800/- for having retained the Govt. accommodation even after his transfer on 3/6/2011 from Nagpur City ( Ganesh Peth ) to Nagpur Rural ( Kuhi ).

2. I have perused the record and proceedings and heard Shri G.G. Bade, the Id. counsel for the applicant and Shri P.N. Warjurkar, the Id. P.O. for the respondents.

3. It is not disputed at all that the applicant was allotted a Govt. accommodation when he was posted in Nagpur City. He came to be transferred to Nagpur Rural at Kuhi but he did not vacate the said premises. In fact, he retired on 31/12/2014 and ultimately vacated the premises on 5/6/2015. The impugned order seeks to recover the amount referred to in accordance with the Home Department G.R.

dtd. 18/11/2005 which is referred to in the impugned order itself as amended on 5/3/2008.

4. Mr. Bade, the Id. counsel for the applicant told me that inasmuch as the applicant was never given the house rent allowance (HRA), There is no question of making a demand thereof and in that connection he referred me to the judgment of the Hon'ble Supreme Court in a batch of Civil Appeals . The leading one being Civil Appeal No. 11527/2014 ( arising out of S.L.P.(C) No.11684/2012 ) ( **State of Punjab and others -vs- Rafiq Masih** ) with particular reference to para 5 thereof and also the concluding paragraph. The Id. P.O. countered the submissions of the Id. counsel for the applicant pointing out that it is not a case of recovery but penal rent for retention of Govt. accommodation unauthorizedly and after the due period of time.

5. I am in agreement with the submission of the Id. P.O. I find that it is really not a case of HRA at all. **Rafiq Masih** has no application hereto because it is not a case of

recovery of an amount already paid and the entitlement thereof having been found to be absent latter on. Here the case is so simple as that and in my opinion the applicant is really no answer on the demand made on him by the impugned order. Going by the scope of the O.A. such as it is I find that there is no merit herein and it is accordingly dismissed with no order as to costs.

**( R.B. Malik )**  
**Member ( J )**

Skt.