

**IN THE MAHARASHTRA ADMINISTRATIVE TRIBUNAL
MUMBAI**

ORIGINAL APPLICATION NO.1069 OF 2023

DISTRICT : MUMBAI

Shri Sunil Laxman Gohire,)
Age 60 years, Occ. Retired Sepoy,)
R/at BST Chawl Building No.7, Room No.41,)
Belasis Road, Mumbai Central, Mumbai 400008)..Applicant

Versus

1. The State of Maharashtra,)
Through the Principal Secretary,)
Home Department, Mantralaya, Mumbai 400032)
2. The State of Maharashtra,)
Through the Secretary,)
General Administration Department (23A),)
Mantralaya, Mumbai 400032)
3. The Executive Engineer,)
North Mumbai (PWD), Dadabhai Nouroji Road,)
Andheri West, Mumbai 400022)
4. Dy. Commissioner of Police (Railways),)
Head Quarters, Wadi Bandar, P.D'Mello Road,)
Mumbai 400010)..Respondents

Shri M.B. Kadam – Advocate for the Applicant

Smt. Archana B.K. – Presenting Officer for the Respondents

CORAM : Smt. Medha Gadgil, Member (A)
RESERVED ON : 16th February, 2024
PRONOUNCED ON: 20th February, 2024

J U D G M E N T

1. The applicant is challenging the impugned order dated 23.6.2022 passed by respondent no.3 by which the penal rent of Rs.7,52,481/- is to be recovered from his retirement benefits.

Brief facts:

2. The applicant who was working as a Peon in the office of respondent no.4 was occupying Service Quarter No.D/7/1079 in Government Colony, Bandra (E), Mumbai allotted to him on 18.2.2009. The applicant was in possession of the government quarter from 18.2.2009 till 24.8.2021. The applicant took voluntary retirement and stood retired on 31.7.2019. As per rules the government servant can hold/possess the government quarter for 3 months after his retirement. As per this rule applicant's three months period expired on 31.10.2019. After the period of three months expiry, the applicant continued to possess his government quarter for 1 year 10 months and 2 days extra. Hence, respondent no.3 issued notice on 23.6.2022 upon the applicant for penal rent of Rs.7,52,481/-.

3. Ld. Advocate for the applicant submits that applicant's daughter expired on 3.7.2019 due to Tuberculosis (TB). After her death the applicant was also suffering from same disease i.e. TB and he has produced record to prove that he was admitted in J.J. Group of Hospitals for TB on 15.6.2019. Ld. Advocate for the applicant pointed out that applicant was suffering from breathing problem since July 2017 and was taking treatment for the TB however unfortunately the daughter of the

applicant, who was also suffering from TB, expired on 2.7.2019 and the applicant was unable to vacate the government quarter within three months from the date of retirement. He filed request application on 24.8.2021. The applicant stated that due to COVID-19 Pandemic there was lockdown in the country from 23.3.2020. The first GR dated 14.8.2020 give concession in penal rent to those who are in possession of Government quarter even after the expiry of mandatory period up to 31.7.2020. Thereafter by GR dated 22.4.2022 this period was extended up to 30.4.2022. Ld. Advocate for the applicant pointed out that the applicant vacated the government quarter on 24.8.2021 much before the extended period of 30.4.2022. Ld. Advocate for the applicant pointed out that applicant was under depression due to the sad demise of his daughter and he was also infected with TB and was admitted in J.J. Hospital and therefore could not vacate the government quarter.

4. Ld. Advocate for the applicant relied on the judgment and order dated 10.8.2018 passed by this Tribunal in **OA No.41 of 2016 Shri Sampat Baburao Sawant Vs. The State of Maharashtra & Ors.** In this case the penal rent was condoned on the ground of discrimination between senior and junior.

5. Per contra Ld. PO opposes the submissions made by the Ld. Advocate for the applicant. She pointed out that as per the rules the applicant was required to vacate the government quarter within three months of his retirement and in that case it was 31.10.2019. She contends that the GRs are not applicable to the applicant as he retired prior to 30.11.2019. She further pointed out that the authorities do not have the power to allow anyone to stay in government quarter after expiry of 3 months on medical grounds. She further pointed out that the applicant is a government servant and is well aware of the rules and regulations. She therefore submits that the OA may be dismissed.

6. Considered the submissions of both the sides. It is a fact that the applicant who retired on 31.7.2019 was required to vacate the government quarter on 31.10.2019. Perusal of the papers reveals that applicant was suffering from Tuberculosis and was hospitalized in J.J. Hospital, Mumbai. His daughter also expired on 3.7.2019 due to TB and he was under depression from the same due to which he took voluntary retirement. After mandatory period of 3 months got over he was in possession of the government quarter almost for 1 year 10 months and 2 days extra. In the mean while there was COVID-19 Pandemic in the country and in this connection Gad issued two GRs. dated 14.8.2020 and 22.4.2022. Relevant portion of GR dated 14.8.2020 reads as under:

“३. कोरोना (कोविड) या संसर्गजन्य आजाराच्या पार्श्वभूमीवर लॉकडाऊनच्या कालावधीत सामान्य प्रशासन विभागाच्या बृहन्मुंबईतील शासकीय निवासस्थानातील वास्तव्याबाबत शासनाने खालीलप्रमाणे निर्णय घेतला आहे :-

अ) शासकीय निवासस्थानात वास्तव्यास असलेले जे शासकीयअधिकारी/ कर्मचारी दि. ३० नोव्हेंबर, २०१९ किंवा त्यानंतर शासकीय सेवेतून सेवानिवृत्त झाले असतील अशा अधिकारी / कर्मचारी यांनी शासकीय निवासस्थानातील वास्तव्याचा अनुज्ञेय कालावधी संपुष्टात आल्यानंतर दि.३१.०७.२०२० पर्यंत शासकीय निवासस्थान ताब्यात ठेवले असल्यास त्यांना दंडनीय दर आकारण्यात येऊ नये.”

Relevant portion of GR dated 22.4.2022 reads as under:

“आ) सामान्य प्रशासन विभागाच्या अधिपत्याखालील फक्त बृहन्मुंबईतील, शासकीय निवासस्थाने विहित कालावधीत रिक्त न केलेल्या, अधिकारी / कर्मचारी यांच्याबाबतीत दि.०१.०८.२०२० ते दि. ३०.०४.२०२२ पर्यंत शासकीय निवासस्थानाच्या भाड्याची दंडनीय दराने आकारणी करण्यात येऊ नये. सदर कालावधीसाठी नियमित दराने शुल्क आकारणी करण्यात यावी.”

7. A policy decision was taken by the Government of Maharashtra not to impose penal rent on government employees who are occupying

government quarter who retired on 30.11.2019 or thereafter. The same was extended till 30.4.2022.

8. In this case it is clear that applicant was suffering from serious illness and was also under depression after sad demise of his daughter. Thereafter the COVID-19 Pandemic struck the country and no penal rent was to be levied on government employees who retired after 30.11.2019. In view of the special facts and circumstances of this case, I pass the following order.

ORDER

- (a) Original Application No.1069 of 2023 is partly allowed.
- (b) The applicant is directed to pay the penal rent for the period from 1.11.2019 to 22.3.2020. As per the GRs, no penal rent should be recovered from him from 23.3.2020 to 24.8.2021.
- (c) No order as to costs.

Sd/-
(Medha Gadgil)
Member (A)
20.2.2024

Dictation taken by: S.G. Jawalkar.