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**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI**

C.P. NO.80/2006
in
O.A. NO.1247/2002

This the 2nd day of March, 2006.

HON'BLE SHRI V. K. MAJOTRA, VICE-CHAIRMAN (A)
HON'BLE SHRI MUKESH KUMAR GUPTA, MEMBER (J)

1. Kulvinder Singh S/O Late Ajit Singh,
C/O Rajinder Prasad,
R/O H. No.I-343, Sarojini Nagar,
New Delhi-110023.
2. Smt. Nirmal Kaur W/O Late Ajit Singh,
R/O H. No.I-343, Sarojini Nagar,
New Delhi-110023.

... Applicants

(By Shri R. N. Singh for Shri A. S. Singh, Advocate)

versus

1. Shri Anil Baijal,
Secretary,
Ministry of Urban Development,
Nirman Bhawan,
New Delhi-110011.
2. Shri Vijay Dev,
Director, Directorate of Estates,
Nirman Bhawan,
New Delhi-110011.
3. Shri R. C. Arora,
Assistant Director,
Directorate of Estates,
Nirman Bhawan,
New Delhi-110011.

... Respondents

ORDER (ORAL)

Hon'ble Shri V.K.Majotra, Vice-Chairman (A):

This petition is directed against the alleged wilful and deliberate disobedience and non-compliance of Tribunal's orders dated 3.12.2002 (Annexure-A) in OA No.1247/2002. OA No.1247/2002 was disposed of vide order dated 3.12.2002 with the following observations/directions to respondents:

"11. As regards retention of the government accommodation by the applicants beyond the permissible period, I find that no action has been initiated by R-5 under PPE Act for



eviction proceedings and therefore the ruling of the apex court in the case of Rasila Ram would not be attracted in the instant case.

12. I am aware of the legal position that the Tribunal cannot issue any direction in the matter of compassionate appointment but can only direct consideration of the request for compassionate appointment. However, having regard to the peculiar circumstances of the case as discussed above, I feel that ends of justice would be duly met if the OA is disposed of in the following terms:

“The impugned order dated 26.3.2002 is quashed and set aside. Respondents are directed to reconsider the case of first applicant for compassionate appointment against a suitable post. The applicants are allowed to retain the government accommodation on payment of licence fee in terms of OM dated 31.8.2001 (supra). Respondents shall not dispossess the applicant from the government accommodation till a decision is taken on the compassionate appointment of the first applicant”

I do so accordingly, leaving the parties to bear their own costs.”

2. Earlier CP No.219/2003 made on behalf of applicants was disposed of vide order dated 4.2.2004 directing respondents to review the case of applicant for compassionate appointment and consider it in the light of Tribunal's observations by a detailed and speaking order. Thereafter, applicants filed MA No.1751/2004 in CP No.219/2003 for revival of the CP. This MA was dismissed vide order dated 13.10.2004 finding no sufficient cause for revival of the CP.

3. The learned counsel brought to our notice Annexure A-2 dated 1.7.2005 to the following effect:

“2. The Employment Assistance case in respect of Shri Kulvinder Singh was carried forward for one year i.e. upto 2005. Accordingly, his case had been put to Board of Officers on 24 Mar 2005 and 24 Jun 2005 for scrutiny and consideration. However due to non-availability of vacancies, the case has been carried forward to the next Board Meeting. The case will be placed once again before the Board of Officers to be convened in the last week of Sep 2005. As such, the outcome of the case will be intimated after the final meeting of the Board.”

3. The learned counsel maintained that in spite of the Tribunal's directions contained in order dated 3.12.2002, respondents have issued order dated 16.12.2004 (Annexure A-3) directing vacation of the government premises in occupation of applicants under the provisions of Public Premises (Eviction of Unauthorized Occupants) Act, 1971 (for short, the PPE Act). The learned counsel

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drew our attention to Annexure A-2 dated 1.7.2005 stating that the case of applicant for employment assistance was carried forward for one year, i.e., up to 2005. Applicant's case was put up before the Board of Officers on 24.3.2005 and 24.6.2005 but was further carried to the next Board meeting scheduled for September, 2005 due to non-availability of vacancies. He maintained that respondents' orders dated 16.12.2004 for vacation of the said government premises despite Tribunal's directions in combination with respondents' orders dated 1.7.2005, are deliberate and wilful disobedience of Tribunal's directions. The learned counsel demanded action against the alleged contemnors as also restoration of the possession of premises No. I-347, Sarojini Nagar, New Delhi to applicants herein.

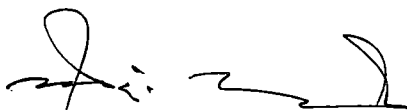
4. We have considered the contentions raised before us on behalf of applicants.

5. Shri Ajit Singh, father of the first applicant, died on 30.10.1999. In order dated 3.12.2002 noting that no action had been initiated by respondents under the PPE Act for eviction proceedings, it was viewed that the ruling of the Apex Court in the case of *Rasila Ram* was not attracted. In the peculiar circumstances of the case while applicant's case for compassionate appointment was also directed to be considered, it was directed that respondents would not dispossess applicants from the government accommodation till a decision is taken on the compassionate appointment of the first applicant. Thereafter CP No.219/2003 was disposed of with certain observations and MA No.1751/2004 for revival of the CP was dismissed vide order dated 13.10.2004.

6. Respondents have been considering the case for compassionate appointment since 1999. Vide Annexure A-2 dated 1.7.2005, its consideration was further postponed to the last week of September, 2005 due to non-availability of vacancies. It is observed from Tribunal's orders dated 3.12.2002, non-compliance of which has been alleged herein that applicants' case regarding occupation of government premises was not found covered by the ruling of the Apex Court in *Union of India v Rasila Ram & Ors* [JT 2000 (10) SC 503] as

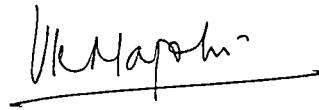
action had not been initiated by respondent No.5 under the PPE Act for eviction proceedings. In these circumstances, it was directed that respondents would not dispossess applicants from the government accommodation till a decision was taken on the compassionate appointment of the first applicant. Respondents have proceeded under the provisions of the PPE Act. They were not debarred nor could they be debarred by order dated 3.12.2002 of the Tribunal from taking action under the PPE Act. It is clear from Annexure A-3 that respondents have taken action under the PPE Act and now certainly the ruling of the case of **Rasila Ram** is applicable to the issue of retention of government accommodation by applicants. This Tribunal would not have any jurisdiction for interfering with the order dated 16.12.2004 (Annexure A-3) passed under the provisions of the PPE Act. The direction in the circumstances obtaining at the time of passing of orders by the Tribunal has been rendered ineffectual in the wake of respondents' orders dated 16.12.2004. These cannot be termed as orders made in defiance of the Tribunal's directions. It is further observed that respondents have been very generous in carrying forward the application for employment assistance year after year. Such an action due to non-availability of vacancies cannot enable applicants to draw a clearly undue benefit of occupation of the government house for more than seven years. In our considered view, there is no wilful and deliberate disobedience of the Tribunal's directions.

7. This CP, therefore, is dismissed in *limine*.



(Mukesh Kumar Gupta)
Member (J)

/as/



(V. K. Majotra)
Vice-Chairman (A)

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