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CENTRAL ADMINISTRATIVE TRIBUNAL. PRINCIPAL BENCH

OA No. 3046/2002

New Delhi this the 21st day of October, 2003.

HON'BLE MR. SHANKER RAJU, MEMBER (JUDICIAL)

1. Director General.
Council of Scientific and
Industrial Research.
Anusandhan Bhawan.
2 Rafi Marg,
New Delhi-110001.

2. MNational Physical Laborator
through its Director.
Dr. K.S. Krishna Marg,
New Delhi-110012.

-Applicants

(By Advocate Satish Kumar proxy for Sh. V.K. Rao,
Advocate)

-Versus-

K.L. Ahuja (Ex-Technical Officer).
Q. No.9C/1, at NPL Colony,
New Rajinder Nagar,
New Delhi-110060.

-Respondent

(By Advocate Sh. S.P. Chadha)

1. To be referred to the Reporters or not? YES
2. To be circulated to other Benches of the Tribunal? YES

S. Raju
(Shanker Raju)
Member (J)

(21)

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O R D E R

By Mr. Shanker Raju, Member (J):

Present application has been filed by Council of Scientific and Industrial Research (CSIR) claiming the following reliefs:

- "I) Direct the respondent to vacate the quarter No.9-C/1 at NPL Colony, Rajinder Nagar, New Delhi allotted during his service as a Technical Officer and which stood cancelled and the respondent became liable to vacate the quarter on the expiry of retention permission, which got expired at the end of 4 months after the retirement i.e. on 31.5.2001.
- II) Grant permission to the applicant to recover the amount accrued by way of penal licence fee and other charges from the dues and benefits of the respondent as per the rules which as per the calculation of the applicant amounts to Rs.52,224/-.
- III) Grant any consequential relief which this

Hon^{ble} Tribunal deem fit and proper in the interest of justice."

2. Briefly stated, respondent who was working with the respondents as Technical Officer under the provisions of CSIR (Residence Allotment) Rules, 1997 was allotted an official residential quarter bearing No.9C/1 at NPL Colony.

3. Respondent, who was to superannuate on attaining the age of retirement on 31.1.2001, made a request on 25.1.2001 to retain the quarter for permissible period of four months which was accordingly granted to him vide OM dated 20.2.2001. As the aforesaid period for permissible retention expired on 31.5.2001 and as no further retention has been sought applicants vide letter dated 20.6.2001 directed respondents to vacate the accommodation but the same was not vacated, with the result further letters dated 28.12.2001 and 15.3.2002 had been served upon respondent. Applicants served a final notice on respondent vide letter dated 22.4.2002.

4. As respondent's allotment has already been cancelled he has been directed to pay penal licence fee at the rate of Rs.3,000/- per month besides other charges. As respondent had failed to comply with the directions the present OA has been filed.

5. Learned counsel for applicants contends that as the allotment of quarter is one of the service conditions under the Allotment Rules ibid in view of the decision of the High Court of Delhi in **Smt. Babli & Anr.**

v. Govt. of N.C.T. of Delhi & Ors., 95 (2002) DLT 144 (DB) this Court has jurisdiction to entertain the present OA and to grant relief prayed for to applicants.

6. Moreover, it is contended that after the permissible extended period for retaining accommodation after retirement respondent has become unauthorised occupant and is liable not only to pay damage rate but also to vacate the premises. By referring to the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 (P.P. Act, for short), it is contended that as the CSIR has not been notified the accommodation cannot be treated as public premises to attract the provisions of the P.P. Act and the proceedings would be taken as per law under the statutory rules of accommodation framed by applicants.

7. Further, relying upon the decision of the Principal Bench in OA-110/95 decided on 8.9.1997 in C.S.I.R. & Anr. v. Sh. Kanwar Pal, it is stated that in similar circumstances directions have been issued to respondent to vacate the premises.

8. On the other hand, respondents' counsel Sh. S.P. Chadha at the outset disputed the jurisdiction of this Court and contends that in view of the decision of the Apex Court in **Union of India v. Rasila Ram & Ors.**, JT 2000 (10) SC 503, the present accommodation allotted to respondent in service comes within the purview of public premises as defined in Section 2 (e) (2) (ii) of the P.P. Act, 1971. According to him, being a Society owned and controlled by the Central Government the same comes within the definition of Corporation. Further resorting to **Rasila**

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Ram's case (supra) it is stated that once a government servant had been held to be in occupation of the public premises and is an unauthorized occupant within the meaning of the P.P. Act, which is to be construed as continuing in occupation in public premises after expiry of the permissible period, this Court has no jurisdiction as the same does not constitute a service matter within the ambit of definition contained in Section 3 (a) of the Administrative Tribunals Act, 1985.

9. On merits, it is contended that the gratuity etc. of respondent has been wrongly withheld and he is liable to pay only normal licence fee.

10. I have carefully considered the rival contentions of the parties and perused the material on record.

11. In order to sustain the application under Section 19 of the Administrative Tribunals Act, 1985 a Full Bench of this Court in an analogous department, i.e., I.C.A.R., New Delhi v. Shri Mangal Singh, A.T. Full Bench Judgments 1997-2001 page 358 held that Administrative Tribunals Act, 1985 has been enacted not only for redressal of grievance of employees but also of employers. In the aforesaid Full Bench following reference has been answered in the affirmative "Whether an employer can come to the Tribunal for a declaration against a retired employee relating to the alleged unauthorised occupation of the accommodation which had been allotted to the employee while



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he was still in service and for recovery of damages for the period the retired employee continued to occupy the accommodation unauthorisedly".

12. A Constitutional Bench of the Apex Court in **Pradeep Kumar Biswas v. Indian Institute of Chemical Biology and Others**, 2002 SCC (L&S) 633, by a majority decision in so far as notification of CSIR under Section 14 (3) of the A.T. Act, 1985, which provides that the Central Administrative Tribunal shall also exercise, on and from the date with effect from the provisions of this sub-section apply any local or other authority or corporation or society all service matters concerning a person appointed to any service with the affairs of local authority. The Constitutional Bench held that CSIR being owned and controlled by the Government is amenable to the jurisdiction of High Court as a State or other authority under Article 12 of the Constitution of India.

13. If one has regard to the above, CSIR is amenable to the jurisdiction of this Court under Section 14 of the Act, being a Corporation (Society) owned and controlled by the Government.

14. P.P. Act, 1971 defines public premises under Section 2 (e) (2) (ii) as "any premises belonging to, or taken on lease or on behalf of any Corporation not being a company as company as defined in Section 3 of the Companies Act, 1956 or a local authority established by or under a Central Act owned or controlled by the Central Government.

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15. If one has regard to the above, any corporation which is owned or controlled by the Central Government any premises belonging to it is a public premises within the meaning of P.P. Act.

16. In so far as Societies, Corporation and other statutory bodies are concerned, a Constitutional Bench of the Apex Court in **Ashok Marketing Ltd. & Anr. v. Punjab National Bank and Others.** (1990) 4 SCC 406 held as follows:

"64. It would thus appear that, while the Rent Control Act is intended to deal with the general relationship of landlords and tenants in respect of premises other than government premises, the Public Premises Act is intended to deal with speedy recovery of possession of premises of public nature, i.e. property belonging to the Central Government, or companies in which the Central Government has substantial interest or corporations owned or controlled by the Central Government and certain corporations, institutions, autonomous bodies and local authorities. The effect of giving overriding effect to the provisions of the Public Premises Act over the Rent Control Act, would be that buildings belonging to companies, corporations and autonomous bodies referred to in Section 2(e) of the Public Premises Act would be excluded from the ambit of the Rent Control Act in the same manner as properties belonging to the Central Government. The reason underlying the exclusion of property belonging to the Government from the ambit of the Rent Control Act, is that the Government while dealing with the citizens in respect of property belonging to it would not act for its own purpose as a private landlord but would act in public interest. What can be said with regard to government in relation to property belonging to it can also be said with regard to companies, corporations and other statutory bodies mentioned in Section 2(e) of the Public Premises Act. In our opinion, therefore keeping in view the object and purpose underlying both the enactments viz. the Rent Control Act and the Public Premises Act, the provisions of the Public Premises Act have to be construed as overriding the provisions contained in the Rent Control Act."

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17. If one has regard to the above and keeping in view the provisions of Section 14 (2) and (3) of the Administrative Tribunals Act, 1985, there cannot be a distinction between a corporation or a society. The only requirement to make it a State and amenable to the jurisdiction of this Court is that it should be owned and controlled by the Government.

18. In so far as public premises is concerned, if the premises in question is owned by a society, owned and controlled by the Government it can be treated on the same footing as a corporation owned and controlled being a statutory body in the light of the interpretation of the Apex Court to the provisions of Section 2 (e) of the P.P. Act., 1971.

19. In Rasila Ram's case (supra) the following observations have been made:

"7. All this notwithstanding, we find that Tribunal held petitioners OAs are maintainable upon reliance on the Supreme Court Judgement in Rasila Ram's case (supra) which laid down:

Once a government servant is held to be in occupation of a public premises as an unauthorized occupant within the meaning of Eviction Act and appropriate orders are passed thereunder, the remedy to such occupants is as provided under the said Act. By no stretch of imagination the expression of any other matter in Section 13(q)(v) of the Administrative Tribunal Act would confer jurisdiction on the Tribunal to go into the legality of the order passed by the Competent Authority under the provisions of PPE Act, 1971. In view of the matter, the impugned assumption of jurisdiction by the Tribunal over an order passed by the Competent Authority under the Eviction must be held to be invalid and without jurisdiction. this order of the Tribunal accordingly stands set aside."

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20. If one has regard to the above, a government servant who is in occupation of a public premises and is an unauthorised occupant within the meaning of Eviction Act the remedy of such a person is under the P.P. Act. The same analogy and interpretation would mutatis mutandis applies to applicants herein.

21. An unauthorized occupation is defined under Section 2 (g) of the P.P. Act, defining an occupation by any person of the of the public premises without authority beyond the permissible period. As the permissible period as per the Allotment Rules is four months from the date of superannuation as per Rule 11.5 of the Allotment Rules on expiry of the permissible concessional period the allotment is deemed to be cancelled and person an unauthorized occupant.

22. In so far as provisions for eviction of such an officer as per the Allotment Rules, Rule 25 (1) designates Senior CEO functioning as Head of the Department to discharge the functions and responsibility of Estate Officer.

23. In so far as any provision relating to eviction is concerned, Rule 13, which deals with over-stayal in residence after cancellation of allotment a liability to pay penal licence fee, damages and to face disciplinary proceedings on any proceedings to be taken at the discretion of the Head of the Laboratory. There is no reference to eviction proceedings as provided under P.P. Act.

24. The resort of applicants on Babli's case decided by the High Court of Delhi wherein the allotment was cancelled and proceedings have been initiated under the P.P. Act, the Tribunal has been observed to have no jurisdiction as the cause of action does not constitute a service matter within the definition of Section 3 (1) of the A.T. Act. However, there has been an observation as to claim of allotment of government accommodation if it is a condition of service and provided under the relevant rules. There is no finding to the effect that in case no procedure is laid down under the relevant rules of allotment for eviction and to recovery of penal rent and damages what would be the course of action and who will have jurisdiction.

25. As the Apex Court over-rides the decision of the High Court as well as the Full Bench decision of this Court an unauthorised occupant whose allotment is cancelled if retains the accommodation which is a public premises, as in the present case, beyond the permissible period, is deemed to be an unauthorized occupant and for his eviction and recovery of penal rent etc. this Court has no jurisdiction, rather the action should be taken by the applicants as per law under the P.P. Act, 1971.

26. In this view of the matter as accommodation in possession of respondent is a public premises, the reliefs prayed for do not fall within the ambit and jurisdiction of this Court and is not a service matter within the definition of Section 3 (a) of the A.T. Act, 1985. Accordingly, OA is dismissed for want of

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jurisdiction. However, this shall not preclude applicants from taking up appropriate proceedings against respondent in accordance with law. No costs.

S. Raju

(Shanker Raju)
Member (J)

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