

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPA BENCH

OA No.1033/2001

New Delhi, this 19<sup>th</sup> day of February, 2002

Hon'ble Shri Govindan Tampi, Member(A)

Smt. Geeta Khanna  
w/o Shri Girish Khanna  
A-4-C/47, Janakpuri  
New Delhi

.. Applicant

(By Shri S.K. Rungta, Advocate)

versus

Union of India, through

1. Estate Officer  
Directorate of Estates  
M/Urban Development  
Nirman Bhavan, New Delhi

2. Secretary  
Deptt. of Expenditure  
M/Finance, North Block  
New Delhi

.. Respondents

(By Shri R.V. Sinha, Advocate)

through proxy Shri R.N. Singh) ORDER

Smt. Geeta Khanna, applicant in this OA assails notices dated 21.10.1997 and 16.11.2000, proposing the cancellation of the accommodation and recovery of damage rent for the period of unauthorised occupation. The orders have been stayed on 27.4.2001 and the stay continues.

2. Heard S/Shri S.K. Rungta and R.N. Singh, learned counsel for the applicant and the respondents respectively. Arguments were first heard on 1.2.2002. The case was again posted on 5.2.200 for being spoken. On the subsequent date only Shri R.N. Singh appeared and submitted list of relevant dates.

3. The applicant who was appointed as LDC in the Deptt. of Expenditure in 1986, was allotted a Govt. accommodation in 1993, which remained with her till July, 1998. She had proceeded on leave w.e.f. 30.5.1994 and had to continue to be so till her resignation effective from 11.5.1994. In between she had kept the department posted through the leave applications and her leave had been sanctioned till 31.12.1997. On 21.10.1997, she was informed for the first time that she was treated to be in unauthorised occupation of the accommodation since 28.10.1994. The applicant disputed the above as well as the proposed recovery of Rs.17,899/- as damages @ Rs.2145/- p.m. from 1.6.1995. Interestingly the relevant period was included in the period for which leave had been sanctioned. Subsequent letter of 16.11.2000 had proposed the recovery of Rs.97,776/-. Applicant had also appeared before the Estate Officer and agreed to vacate the premises, which she did in July, 1998. In the above scenario treating the applicant as unauthorised occupant of the premises and charging damages for the period was improper and irregular, according to her learned counsel Shri S.K. Rungta. Shri Rungta avers that the applicant was unjustly and unfairly treated, when facts were in her favour. Hence the need for Tribunal's immediate intervention, he prays.

4. In his submission, on behalf of the respondents, Shri R.N. Singh, learned counsel states that the applicant has not approached the Tribunal with clean hands. He points out that the accommodation allotted to the applicant on 14.5.1993 was cancelled on 8.8.1997 w.e.f. 28.10.1994, as the applicant was on long leave., A bill for Rs.71,889/- being the damages for the period upto

31.8.1997 was issued on 15.9.1997. Thereafter the accommodation was got evicted by the Directorate of Estates, after proper proceedings under PP (Eviction of unauthorised occupants) Act, 1971 (though the applicant had wrongly claimed that she handed over the possession on her own). On 2.9.1999, a further clearance certificate showing dues of Rs.99,249/- was issued. Subsequently on knowing that the applicant's absence has been regularised to some extent by sanctioning the leave the cancellation of the accommodation was modified from 28.10.1994 to 11.11.1996 and the dues were reworked and shown as Rs.49,771/-. As the eviction proceedings under PP(EUO) Act, 1971 have already taken place, jurisdiction of the Tribunal is ousted in terms of the decision of Union of India Vs. Rasila Ram (JT 2000(10) SC 503) pleads Shri R.N. Singh. In a case like this, appeal lies with the Civil Court and not before the Tribunal. He also refers to the decision of the Hon'ble Delhi High Court in Hardwarilal Verma Vs. Estate Officer & Ors. (AIR 1977 Delhi 268). The applicant's case deserved to be dismissed both on law and on facts, according to Shri Singh.

5. I have considered the matter. The applicant in this case challenges the cancellation of the residential accommodation as well as proposal to recover damages for unauthorised occupation. The applicant who was allotted residential accommodation continued to occupy the same even when she was on leave not duly sanctioned. Hence the cancellation of the accommodation and demand for paying the damages. In the meanwhile the premises had also been got vacated in July, 1999 in terms of PP(EUO) Act, 1971 by the empowered authority. However, as it was

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found that a portion of the absence was regularised by leave, the period of unauthorised occupation and the amount of damage have been modified as being effect from 11.11.1996 and Rs.49,771/-. The impugned orders bring about the above have been correctly issued by the respondents and cannot be assailed. It is also found that the applicant who was evicted under PP(EUO) Act, 1971 had concealed the same before the Tribunal, claiming that she had vacated the premises. Her case fails on the same ground as well. Further, I observe that once the eviction proceeding under PP(EUO) Act, 1971 are contemplated, the remedy does not lie before this Tribunal but elsewhere as per law laid down in Rasila Ram's case by the Hon'ble Supreme Court. I also note that in Hardwari Lal Verma's case (supra), the Hon'ble Delhi High Court had held that a government servant who has been allotted a quarter, was nothing more than a licensee and that licence can be cancelled at any time. This also goes to support the case of the respondents.

6. I am thus convinced that the applicant has failed to make out any case for the interference of the Tribunal both on merits and on jurisdiction. OA, being devoid of merit, is dismissed. No costs.

(Govindan S. Tampi)  
Member(A)

/patwal/