

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A.No.841/2001
M.A.No.717/2001

Hon'ble Shri M.P.Singh, Member (A)

New Delhi, this the 20th day of April, 2001

1. Smt. Manju Chauhan
w/o Shri Suresh
r/o 83/144, Mir Dard Lane
L.N.J.P.Hospital
Delhi.
2. Shri Suresh
s/o Shri Gyan Chand
r/o 83/144, Mir Dard Lane
L.N.J.P.Hospital
Delhi. ... Applicants

(By Advocate: Shri Survesh Bisaria)

Vs.

1. Govt. of N.C.T. of Delhi
through Lok Nayak Jai Prakash Hospital
through Medical Superintendent
New Delhi.
2. P.H.C.Cum Joint Secretary
(M-II), J.L.N.Marg
New Delhi - 2. ... Respondents

O R D E R(Oral)

By Mr. M.P.Singh, Member(A):

By filing this OA under Section 19 of the Administrative Tribunals Act, 1985, the applicants have sought directions to the respondents to regularise the Quarter No.83/144 Mir Dard Lane, LNJP Hospital in their name or alternative allot a suitable accommodation to them and also further sought a prayer to quash the order dated 19.8.1999 by which market rent on the applicant, for retaining the Government accommodation, has been imposed. He has also ^{made f} sought a prayer to quash the notice dated 7.2.2001, which was issued under the P.P.Act.



2. The facts of the case as stated by the applicants are that Shri Gyan Chand, who was a father of Applicant No.2 and father-in-law of applicant No.1 was appointed as Chowkidar by the respondents in the year 1954. During the course of the employment, he was allotted Quarter No.83/144, Mir Dard Lane, LNJP Hospital. The father of Applicant No.2 retired from service on attaining the age of superannuation on 31.1.1991 and subsequently in the year 1995 the father of Applicant No.2 died. Thereafter, the applicants requested the respondents to regularise the quarter in the name of Applicant No.2. However, the claim of the applicants was rejected by the respondents. Applicant No.2, therefore, filed OA No.706/95 which was disposed of by the Tribunal vide Judgement dated 9.11.1995 by issuing the directions to the applicant that he should shift to the alternative accommodation, i.e., Quarter No.48/80 allotted to him as per the entitlement of the applicant by 30.11.1995 and till then the respondents were directed not to charge any damage rent from him for staying in that house as an unauthorised occupant in Quarter No.83/144. According to Applicant No.1, she was promoted by the respondents as sister in-charge and submitted a representation to regularise the quarter in her name. The representation of Applicant No.1 was rejected. Hence the applicants filed this OA seeking the aforesaid reliefs.

3. I have heard the learned counsel for the applicants and perused the pleadings on record. After hearing the learned counsel for the applicants and perused^{ing} the pleadings, I find that the respondents have now issued notice to Applicant No.1 under

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sub-section (1) of Sec. 4 and Cl.(b)(ii) of sub-section(2) of Sec.4 of Public Premises (Eviction of Unauthorised Occupants) Act, 1971 vide order dated 7.2.2001, Annexure-1.

4. It is therefore clear that the Estate Officer has initiated the eviction proceedings under the said P.P.Act, 1971. The Hon'ble Supreme Court in Union of India Vs. Rasila Ram & Ors. (Civil Appeal Nos.1301004/1990) decided on 6.9.2000, wherein the Apex Court observed as under:

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"To attract the said provisions, it must be held that the premises was a public premises, as defined under the said Act, and the occupants must be held unauthorised occupants, as defined under the said Act. Once, a Government servant is held to be in occupation of a public premises as an unauthorised occupant within the meaning of Eviction Act, and appropriate orders are passed thereunder, the remedy to such occupants lies, as provided under the said Act. By no stretch of imagination the expression any other matter in section 13(q)(v) of the Administrative Act would confer jurisdiction on the Tribunal to go into the legality of the order passed by the competent authority under the provisions of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971. In this view of the matter, the impugned assumption of jurisdiction by the Tribunal over an order passed by the competent authority under the Eviction Act must be held to be invalid and without jurisdiction. This order of the Tribunal accordingly stands set aside. The appeals are accordingly allowed."

5. In view of the above Judgement of the Hon'ble Supreme Court, the OA is not maintainable and is accordingly ~~lack of jurisdiction~~ and is therefore dismissed at the admission stage. However, the applicants are at liberty to file an application at appropriate forum in accordance with law. No costs.

M.P.Singh
MEMBER(A)

/RAO/