

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.1945/1999

New Delhi, this 20th day of April, 2001

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

Madan Mohan
1104, Haripura
Hanuman Gate, Jagadhari .. Applicant

(By Shri B.Krishan, Advocate)

versus

Union of India, through

1. Secretary
M/Health & Family Welfare
Nirman Bhavan, New Delhi
2. Director
Central Health Education Bureau
Kotla Road, New Delhi
3. Pay & Accounts Officer
DGHS, Nirman Bhavan, New Delhi
4. Chief Generalll Manager
ALTTC, Ghaziabad .. Respondents

(By Shri Rajinder Nischal, Advocate, for R-1 to R-3
Shri V.S.R. Krishna, Advocate for R-4)

ORDER

The applicant is before this Tribunal in a fifth round of litigation seeking a variety of reliefs which are not remotely inter-connected with each other. He retired as Cartoonist from office of R-2 on 31.1.1995. He has earlier filed OA No.2029/1995 seeking release of his retiral benefits, which was disposed of by order dated 1.11.96. He filed CP No.37/95 for non-compliance of the order of the Tribunal and the same was disposed of on 28.4.97 discharging the notice issued ^{against} by the respondents. He also filed RA No.145/97, which was disposed of on 4.7.1997. Thereafter he filed another OA No.2374/97 seeking simillar reliefs which was also disposed of by order dated 5.6.1998 with the following directions:



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(1) The respondents will examine the claim of the applicant that he has paid certain licence fee which requires to be adjusted against the claim of the damage rent. This will be done if necessary by constructing the records. The respondents will complete this exercise within four months from the date of receipt of a copy of this order and pass a detailed and speaking order. If any money is bound to be due to the applicant, the same will be paid to him within one month thereafter;

(2) The respondents will ensure that the applicant is paid the arrears of pension within one month from the receipt of the copy of this order. The applicant will be entitled to 12% interest on these arrears from the date one month after the date of issue of letter of authorisation and the date of actual deposit in the account of the applicant.

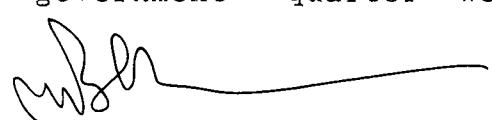
Thereafter applicant made several representations but without any success. That is how he is again before this Tribunal seeking directions to the respondents to the following effect:

(i) To fix pay and allowance of the applicant as per the recommendations of Fifth Pay Commission;

(ii) To treat the period of occupation of the government residence as authorised one and also charge the normal rent in respect of the said residence. If at all any amount comes as outstanding on this account that may be directed to be assessed only in accordance with law under PPE Act and not otherwise; and

(iii) To release final pension, other retial dues etc. with interest @ 24% from the date of retirement i.e. from 1.2.95 till the final payment.

2. In the reply filed on behalf of R-1 to R-3, respondents have stated that all the retirement dues have already been to the applicant. His pension/family pension have also been revised. The orders of the Tribunal dated 5.6.98 in OA No.2374/97 have already been implemented by the respondents. Recoveries on account of the government quarter were made in





accordance with the demand received from the ALTTC, Ghaziabad. The applicant continued to occupy the residential accommodation allotted to him by the ALTTC even after his repatriation from that office and his retirement on 31.3.95. He was therefore treated as unauthorised occupant of the said quarter and accordingly penal rent was charged from him. Also all the retirement dues have already been paid to the applicant there is no question of payment of any interest. Therefore the OA deserves to be dismissed.

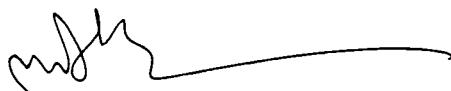
3. In the reply filed on behalf of R-4, it is stated that the applicant after his repatriation from ALTTC on 16.3.89 continued to occupy unauthorisedly the quarter from 17.3.89 and he was evicted from the quarter on 24.2.95, that is nearly after six years. Therefore he was charged damage/penal rent of licence fee a per rules plus electricity and water charges. All his representations were carefully examined considered and suitably disposed off. The learned counsel for R-4 has also drawn my attention to the order in OA 2029/95 wherein the Tribunal has held that "He is liable to pay licence fee, including penal rent as per rules". He has further submitted that the present OA is barred by the doctrine of resjudicata. Also in its order dated 5.6.98 in OA 2374/97, the Tribunal had adjudicated on the issue of the charging of damage rent for unauthorised occupation and had held that there is no illegality in the respondents recovering from the applicant arrears as accumulated in regard to unauthorised occupation of quarter allotted to him by ALTTC. In view of this, the OA deserves to be dismissed.

4. Heard the learned counsel for the parties and perused the records.

5. I find from the records available before me that the concerned respondents have initiated eviction proceedings well in time under PPE Act, 1971 when the applicant did not bother to vacate the quarter beyond the stipulated period. In this connection, it is relevant to cite the decision of the Hon'ble Supreme Court in the case of UOI Vs. Rasila Ram & Ors. in Civil Appeal Nos. 1301-04/1990 decided on 6.9.2000, which is extracted below:

"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 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 the PPE 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...."

6. In view of the aforesaid position, This Tribunal has no jurisdiction to adjudicate upon the issue connected with PPE Act, 1971. Therefore the prayer for the applicant to give any direction regarding damage/penal rent etc. is rejected.



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7. In so far as the other reliefs are concerned, I find that the same have already been granted to the applicant and therefore nothing survives in the present OA.

8. As already stated above, the present OA is hit of principles of resjudicata and therefore deserves to be dismissed on this ground also.

9. For the detailed discussions aforesaid, I find no merit in the present OA and the same is dismissed accordingly. No costs.


(M.P. Singh)
Member(A)

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