

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

OA/TA/CCP No.

19

Page No. *(Signature)*

APPLICANT (S)

COUNSEL

VERSUS

RESPONDENT (S)

COUNSEL

Office Report

Orders

15/12/07

RA 13/P7 in OA 2P0/P6 and RA 135/P2
in OA 2P0/P6 has been rejected
by Hon'ble Mrs Lakshmi Sehgal
Member (J) and Hon'ble Mr. J. K.
Ahuja Member (CA) on 15/12/07.

AM *CC: IV*

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

PRINCIPAL BENCH
NEW DELHI

(29)

RA 19/97
MA 2599/97
RA 135/97
MA 1279/97
in OA 290/96

New Delhi this the 15th day of December, 1997

Hon'ble Smt. Lakshmi Swaminathan, Member (J)
Hon'ble Shri R.K. Ahooja, Member (A)

RA 19/97
MA 2599/97

Suraj Bhan Mehra,
resident of 88/S Baba Kharak Singh Marg,
New Delhi.

..Applicant

(Applicant present in person)

VS

Union of India and others
through

The Chief Controller of Accounts,
Dept. of Supply, 16 Akbar Road Hutsments,
New Delhi

The Estate Officer and Dy. Director,
of Estate (Litigation),
Directorate of Estate,
Maulana Azad Road,
Nirman Bhawan,
New Delhi.

.. Respondents

(By Advocate Sh.K.R. Sachdeva)

O R D E R (ORAL)

Hon'ble Shri R.K. Ahooja, Member (A)

RA 19/97 with MA 2599/97

The petitioner seeks a review of the impugned order in OA 290/96 delivered on 29.10.96. The prayer of the applicant in OA 290/96 was to quash the order of compulsory retirement from service following his conviction on criminal charges. The impugned order of compulsory retirement was passed in 1984 while the OA had been filed in 1996. By the impugned order dated 29.10.96, the Tribunal had dismissed the OA

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on the ground of res-judicata as well as limitation, the matter having already been taken up in the Delhi High Court.

2. In the Review Application, the petitioner submits that the Tribunal had not taken into consideration all the settled questions of law which had been raised by the applicant while passing the impugned order of dismissal of the OA. The main ground taken by him is that his Criminal Appeal against his conviction was still pending before the Delhi High Court and, therefore, he was entitled in the meanwhile to receive the subsistence allowance and other service benefits including promotion. He further submitted that he be allowed to retain the Govt. accommodation, pending the disposal of the Criminal Revision Petition.

3. We have heard the petitioner. It is evident that what the petitioner is seeking is to re-argue the case in the Review Application. We find that all the points raised by the applicant have already been taken due note of.

4. It is also relevant to note that the CWP 1130/85 filed by the applicant in the Delhi High Court against his compulsory retirement had already been rejected by the Delhi High Court on 13.5.1985. Further, it is also to be noted that the OA had been filed 11 years after the impugned order of compulsory retirement was passed and thus the OA was held to be hopelessly time barred. In view of the fact that the points raised by the petitioner had in fact been dealt with by the Tribunal in the impugned order of judgment dated 29.10.96, we find no error which is apparent on the

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face of the record.

5. In the garb of a review petition, the applicant actually seeks to appeal against Tribunal's conclusions. This does not fall within the limited scope and ambit of Order 47 Rule 1 CPC under which alone a review of a decision/order/judgment of the Tribunal is permissible. (See the **Judgement of Hon'ble Supreme Court in Parsion Devi and Ors v. Sumitri Devi and Ors** (JT 1997(8)SC 480.).

6. In the light of the above, RA 19/97 is rejected.

7. MA 2599/97 has been filed by the applicant for inter alia the payment of pensionary benefits. We find that this MA cannot be a part of the Review Petition since it concerns a different cause of action. Hence MA is rejected. It is open to the applicant to seek his remedies in accordance with law.

RA 135/97 with MA 1279/97

RA 135/97 has been filed by the respondents in OA 290/96 with MA 1279/97 for condonation of delay. The delay is condoned after hearing the petitioners/respondents.

2. The petitioners submit that there is a patent error which has crept in the order of this Tribunal in OA 290/96. The OA was dismissed subject to the observation that the respondents/petitioners were not competent to charge enhanced rent for the period prior to 17.7.90. The OA had been filed against the order of compulsory retirement which was passed in 1984. The applicant in that OA had also sought relief by way of grant of subsistence allowance and retention of



Govt. accommodation till the disposal of the Criminal Revision Petition against his conviction in the Criminal case based on which the impugned order of compulsory retirement was passed. It was observed by the Tribunal that the petitioners/respondents had received normal rent from the applicant till 17.7.90. On that ground it was held that it was not open to the respondents to go behind that, and review the order and charge enhanced rent.

3. The petitioners/respondents submit that they had never demanded normal rent from the applicant in the OA.

4. Further under provisions of SR 317-B-22, the applicant in OA was liable to pay the rent at damage rent after cancellation of allotment. It was therefore, submitted that there was a legal error apparent on the face of the record inasmuch as the facts of this case and the statutory rules on the subject have not been taken into account.

5. We have heard Shri Sachdeva, learned counsel for the petitioners and Shri Mehra, respondent. (Applicant in OA)

5. The order of compulsory retirement was passed as far back as in 1984 and no steps were taken by the petitioners/respondents to start the eviction proceedings till 1996 when he had filed the OA. The Tribunal in the impugned order had observed that the applicant in OA had also deposited rent due from him till 17.7.90 and the same had also been accepted by the official of the petitioners/respondents without demur. Obviously, the petitioners had on the one hand not



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ken eviction proceedings and on the other hand had accepted the normal rent till 17.7.90 even if dehors the rules. Noting this the impugned observation had been recorded. We do not, therefore, find that there is any patent error apparent on the face of the record involving a question of fact or law. In these circumstances, we find no merit in the RA and the same is accordingly rejected.

~~R.K. Ahuja~~
(R.K. Ahuja)

~~Member (A)~~

~~Lakshmi Swaminathan~~
(Smt. Lakshmi Swaminathan)
Member (J)

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