

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

R.A. NO. 64/97 in OA NO. 1320/96
M.A. NOS. 604/97

(7)

HON. SHRI R.K. AHOOJA, MEMBER (A).

NEW DELHI, THIS 6TH DAY OF MARCH, 1997

SHRI BIRENDER PRASAD
S/o Shri Krishanandan Prasad
Aged 30 years
R/o C/o Shri Siphat Singh
H.No.50-A, Baba Farid Puri Marg
West Patel Nagar
NEW DELHI

...APPLICANT

VERSUS

1. UNION OF INDIA, through
the Secretary
Ministry of Works and Housing
Nirman Bhawan,
NEW DELHI
2. The Estate Officer
Directorate of Estates
Nirman Bhawan
NEW DELHI
3. The Secretary
Union Public Service Commission
Shahjahan Road, Dholpur House
NEW DELI

..RESPONDENTS

ORDER (BY CIRCULATION)

The applicant in the O.A. No.1320/96 was an LDC who had been allotted quarter No.23-1B, Sector II, DIZ Area, Gole Market, New Delhi, w.e.f. 23.8.1993. The allotment was cancelled on grounds of alleged subletting. The O.A. was dismissed by the impugned order dated 1.1.1997. The present Review Application has been filed on the ground that there are certain errors

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of fact and law apparent on the face of record. An M.A.

No.604/97 has also been filed that since legal errors apparent on the face of record have been pointed out which should be examined by a Judicial Member, hence in the interest of justice, the R.A. may be heard by a Division Bench.

2. It would thus be proper to first deal with the M.A. 604/1997. Section 3'(ia) of the Administrative Tribunals Act defines the Member of the Administrative Tribunal and reads as follows:-

"Member' means a Member (whether Judicial or Administrative) of a Tribunal, and includes the Chairman and a Vice-Chairman."

2. Sub-Section 6 of Section 5 'relating to Composition of Benches' reads as follows:-

"Notwithstanding anything contained in the foregoing provisions of this Section, it shall be competent for the Chairman or any other Member authorised by the Chairman in this behalf to function as a Bench consisting of a single Member and exercise the jurisdiction, powers and authority of the Tribunal in respect of such classes of cases or such matters pertaining to such classes of cases as the Chairman may by general or special order specify."

3. It is clear therefore that a Single-Member Bench may consist of an Administrative Member or a Judicial Member. In terms of proviso of Sub-Section (6) of Section 5, if it appears to the Chairman or Member that a matter should be heard by a Bench consisting of two Members, the case can be so transferred to such a Bench. Vide order No.1/32/87-JA dated 18.12.1991, the Chairman in exercise of the powers conferred by sub-Section 5 has authorised all the Members of C.A.T. to function as Bench consisting of a single Member and to exercise the jurisdiction, powers and authority of the Tribunal in respect of specified classes of cases, subject to, amongst others, the following procedure:

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"(2) that it is open to either party to submit to the Single Member before the matter is taken up for admission or for final hearing, that it may be placed before a Bench of two Members. If such a request is made at the outset, the Single Member shall direct that the case be placed before an appropriate Bench of two Members. Once the case is taken up, no such request shall be entertained at any subsequent stage of the proceedings for admission or final hearing, as the case may be."

4. It is clear therefore that a Member, whether he is Administrative or Judicial can form a Single Bench and dispose of the matter specified in the schedule to the above-mentioned order of the Chairman. It is however open to either of the parties to submit that the matter be taken up before a Bench of two Members, one of whom will be an Administrative Member and the other will be a Judicial Member. No such request was made by the applicant/Review petitioner to have the matter placed before a D.B. It is not open to the review petitioner now to have the review application placed before a D.B. because the D.B. cannot sit in appeal over the orders of a Single Member Bench. The order of the Single Bench are the orders of the Tribunal and an appeal thereof can only be heard by the Hon. Supreme Court. The M.A. therefore is without merit and is summarily rejected.

5. Insofar as the R.A. is concerned, the applicant has gone over the inadequacy of the evidence before the Estate Officer. Various arguments have been advanced to show that the preponderance of the evidence was in favour of the stand of the applicant. This is a matter of fact adjudication and it has been held in the impugned order that it is not within the purview of the Tribunal to go into such fact adjudication since in a matter of judicial review, what is to be seen is

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whether there was any evidence before the authority passing the order and whether due opportunity to show cause was afforded.

Since it was held that there was some evidence before the competent authority regarding the stay of Shri Maiti and his family in the said quarter, it was held that it was not necessary for the Tribunal to go further into the circumstances in which Shri Maiti stayed in the house or for how long he actually stayed there.

6. The Review Petitioner also submits that there was an error of law in as much as the impugned order did not follow the ratio determined by a Division Bench in the case of BHUPENDER SINGH VS. UOI & ORS. 1993 (23) ATC 113. Reliance placed by the applicant on that judgement had been taken note of in the impugned order. As has been stated by the Supreme Court in AMBICA QUARRY WORKS VS. STATE OF GUJARAT (1987) 1 SCC 213 (para 18) that the ratio of any decision must be understood in the background of the facts of that case and that a case is only an authority for what it actually decides, and not what logically follows from it. The ratio of BHUPENDER SINGH's case (Supra) also is valid so far as the facts of that case went and cannot be automatically applied in all cases of alleged subletting.

7. In the light of the above discussion and facts and circumstances of the case, I find the R.A. without any merit whatsoever. The same is accordingly dismissed.


(R.K. AHOOJA)
MEMBER (A)

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