

Central Administrative Tribunal
Principal Bench

O.A.No.1666/97

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

New Delhi, this the 30th day of March, 1998

Shri Chet Ram
s/o Late Shri Ram Kishan
Wireman
Electrical Division
5, C.P.W.D., R.K.Puram
New Delhi and
Ex-resident of F-60
Nanakpura
New Delhi.

Applicant

(By Shri S.C.Saxena, Advocate)

Vs.

1. The Secretary
Ministry of Urban Development
Nirman Bhawan
New Delhi.

2. Estate Officer
Directorate of Estate
Nirman Bhawan
New Delhi.

3. Executive Engineer
Electrical Division-5
CPWD, R.K.Puram
New Delhi.

Respondents

(By Shri S.Mohd. Arif, Advocate)

O R D E R (Oral)

The applicant was allotted Government accommodation No.F-60, Nanak Pura. In 1994, on the basis of an inspection conducted by the respondents, he was given a notice for alleged subletting of the aforesaid accommodation. The applicant submits that though he produced sufficient proof to show that the allegation was false, he was declared an unauthorised occupant of the said Govt. accommodation. Due to ill health he was unable to file his appeal by the due date. Later he filed a representation, and followed it with a second representation also. He however surrendered the said Govt. accommodation on 1.3.1996. He is now aggrieved

that the respondents have issued a notice dated 7.8.1996 requiring him to pay the damage rent of Rs.23,789/- without giving him an opportunity to be heard and thereafter issued notice, Annexure A1 dated 11.6.1997 under Section 7 (2) of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971. He has therefore come before this Tribunal with a prayer that the respondents be directed to withdraw their illegal notices, under Section 4(1) and 5(2) of the P.P.Act, dated 25.8.1995, 31.8.1995, 1.8.1995, and also to withdraw the notice dated 11.6.1997 under Section 7(2) of the P.P.Act. (13)

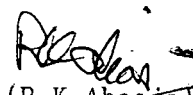
2. The respondents in reply have stated that the applicant was given due opportunity after it had been found that the quarter in question had been subletted. The cancellation order is dated 14.2.1995 but since the order dated 14.2.1995 did not have proper address, a revised cancellation order dated 12.5.1995 was also issued. As the appeal was not filed within time, the matter was referred for eviction proceedings. After the appeal dated 22.8.1995 was received, the applicant herein was asked to appear before the Director of Estates on 25.10.1995. The applicant neither appeared on that date nor on the next date, i.e., 7.2.1996. Thereafter the eviction order was passed and the applicant vacated the said quarter on 1.3.1996. The respondents, in these circumstances, state that claim of damage rent as well as the order for recovery are proper and legal.

3. I have heard the counsel. The learned counsel for the applicant argued that the respondents had already issued the notice for recovery vide Annexure-X dated 7.8.1996. This was done without giving proper

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opportunity to the applicant. In these circumstances, a notice under 7(2) is a post decisional opportunity and is therefore not valid in law. I have considered this argument carefully but find no merit therein. Annexure-X merely mentions that a sum of Rs.23,789/- is still outstanding against the applicant in the books of the Directorate. However action for recovery could not be made for want of particulars of present whereabouts of the applicant. The letter was therefore addressed to the Executive Engineer to intimate various particulars including the permanent address of the applicant. This is no way, an order for payment of damage rent. Mere calculation of the outstanding amount does not mean that recovery had been ordered without giving due opportunity to the applicant. Rightly the respondents have issued the notice under Section 7(2) of the PP Act dated 11.6.1997 and since no reply has been filed thereto, by subsequent order 14.7.1997 was issued under sub section (1) of section 7 ordered recovery of the damage rent as arrears of land revenue. I find no illegality whatsoever in both the impugned orders.

4. OA is therefore found to be without merit and is hereby summarily dismissed. No costs.


(R.K. Ahooja)
Member(A)

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