

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

O.A. No. 573/97

New Delhi this the 21st Day of April 1998

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

Vikram Singh,
S/o Shri Maha Singh,
working as Bearer at
Lady Hardinge Medical College,
& Smt. Sucheta Kirplani
Hospital,
New Delhi

Petitioner

C/o Shri S.M. Garg,
113-C, DDA LIG Flats,
Motia Khan,
New Delhi-110 055.

(By Advocate: Shri S.M. Garg)

-Versus-

1. Chief Administrative Officer,
Lady Hardinge Medical College
and Smt. Sucheta Kirplani Hospital,
New Delhi. Respondent

(By Advocate: Shri K.R. Sachdeva)

ORDER

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

The applicant was appointed to the post of Bearer in Lady Hardinge Medical College and Smt. Sucheta Kirplani Hospital, New Delhi in the year 1992. He states that he could not afford a rental house and therefore requested the Estate Officer to allow him to occupy a room adjacent to House No. 37 T.T. Place, New Delhi within the residential premises of the hospital and which was lying vacant. The permission was granted to him. However, on the complaint of one Bhairo Dutt claiming to be the leader of the Employees Union and who had allegedly demanded money from him, the Estate Officer, issued a notice under Sub Section (1) of Section 5 of the Public Premises (Eviction and Unauthorised Occupants)

LSR
J

J

(21)

Act, 1971 (hereinafter referred to as PP Act), directing him to show cause as to why he should not be evicted from the premises within 15 days. The applicant states that he replied to the notice explaining that he had been living on the premises with the consent of the Estate Officer and also offering that if there was any objection he would vacate the premises immediately. His grievance is that despite the reply the respondents withheld his salary w.e.f. March 1995. The applicant states that as a result of the order of the Estate Officer, he has duly vacated the premises but as his salary was not released, he filed a suit bearing No. 1557/95 in the Court of Senior Civil Judge, Delhi on 26.9.1995, seeking a decree for release of his salary from March 1995 till date. However, learning that this was a matter which falls within the jurisdiction of this Tribunal, he withdrew the said suit and has thus come to file the present OA. He states that though his salary has since been released w.e.f. 1.3.1995 to 1.3.1996, the respondents are illegally deducting a sum of Rs. 800/- p.m. declaring it to be the market rent for the premises alleged to have been unauthorisedly occupied by him. He therefore prays that the respondents be directed to stop this deduction and to refund to him the entire amount deducted from his salary on this account from 1.3.1995 onwards.

On

22

2. The respondents in their reply have denied that the premises were occupied by the applicant with the consent/approval of the Estate Officer. They, on the other hand, state that not only the applicant occupied the space within the residential quarters but also built thereon an unauthorised structure. Therefore, apart from taking action under the PP Act, the Estate Officer had also issued an order Annexure R 2 dated 19.4.1995 that the applicant would be liable to pay the market rent for the unauthorised occupation @ Rs. 800/- p.m. till the date of handing over the vacant possession. The respondents also deny that the applicant had since vacated the premises as claimed by him.

3. I have heard the counsel on both sides. At the outset, I find that the applicant has not been straight forward in his pleadings. Thus, in his original application he states in para 4 (ii) that as he could not afford a rental house out of his meagre income, he therefore, requested the Estate Officer and thereafter applicant was allowed to stay in the said vacant room. On the other hand, he states in Para 2 of his affidavit dated 12.2.1998 that as far as the vacation of land occupied by him is concerned, it is submitted that firstly " I had followed the other persons who similarly occupied the land within the premises of the Lady Hardinge Medical College and Sucheta Kirplani Hospital. I had done so due to my desperate need for residential accommodation for my family and I had done so under an impression that since a number of persons had occupied the vacant

22

land within the said premises and some of them had even raised pucca structures without any objections from the authorities concerned and further those persons were not only occupying the said additional accommodation for years together, but they had also rented the same to outsiders for exorbitant rents and therefore, there was no illegality in my occupying a small portion to build a temporary structure (Juggi) for the residence of my family".

(23)

4. It is clear from his latter statement that no permission was sought by him for occupying the premises. The applicant has not thus come before the Tribunal with clean hands and is therefore not entitled to any relief in this ground alone.

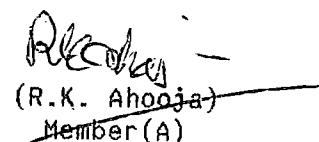
5. I also find that on merits as well, the applicant has no case. The learned counsel for the applicant argued that no notice was given to the applicant regarding the recovery of market rent of Rs. 800/- p.m. from 1.1.1994. On the other hand, the respondents have produced Annexure R-2 with the reply which is a copy of an order of the Estate Officer dated 4.10.1995 stating that as the applicant has not vacated the unauthorised occupied room, he is required to pay the market rent. The receipt of this order was denied by the applicant. The respondents in their additional affidavit have produced a photostat copy of the Peon Book which shows the issue of receipt of this letter to the applicant. On the other hand, in his reply affidavit, the applicant has denied that this Peon Book bears his signatures. It

02

is not necessary for this Tribunal to go into the dispute of fact. Suffice it to say that the whole conduct of the applicant bears out that he was in full knowledge of this order from the time it was issued. His salary had not been released and he has been making representations for its release. He had also been representing that he had been discriminated against as others were allowed to encroach upon Government property while he was denied the same facility. Even in his petition he states that the respondents are denying him the House Rent of Rs. 800/- per month. I am, therefore inclined to believe the version of the respondents, more so, when the conduct of applicant has shown that no reliance can be placed on his statement.

(2A)

6. In the light of the above discussion, I find no illegality in the action of the respondents. OA is therefore summarily, therefore, dismissed.


(R.K. Ahuja)
Member(A)

Mittal