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CAT/1/1

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI**

O.A. No. 2573/94 **199**
T.A. No.

DATE OF DECISION 2-4-97

Smt. Nirmala Joshi **Petitioner**

Shri B. Krishan **Advocate for the Petitioner(s)**

Versus

U.O.I. & Ors. **Respondent**

Shri M. M. Sudan **Advocate for the Respondent(s)**

CORAM

The Hon'ble Smt. Lakshmi Swaminathan, Member (J)

The Hon'ble

1. To be referred to the Reporter or not? *yes*
2. Whether it needs to be circulated to other Benches of the Tribunal? *x*

Lakshmi S.
(Smt. Lakshmi Swaminathan)

Member (J)

(23)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI
OA 2573/94

New Delhi this the 20th day of April, 1997

Hon'ble Smt. Lakshmi Swaminathan, Member (J)

Smt. Nirmala Joshi
w/o Shri S.K. Joshi, Ex-employee
of All India Radio,
R/o 179, Gulmohar Enclave,
DDA SFS Flats,
New Delhi.

... Applicant

(By Advocate Shri B. Krishan)

Vs.

1. Union of India through
Director of Estates,
Directorate of Estates,
4th Floor, 'C' Wing,
Nirman Bhavan, New Delhi.
2. The Principal Pay & Accounts Officer,
Central Pension Accounting Office,
Ministry of Finance,
Department of Expenditure,
274, Shaheed Captain Gaur Marg,
S.N. Puri, New Delhi. 65
3. The Pay & Accounts Officer
M/O Information & Broadcasting,
AGCR Building, New Delhi.

... Respondent's

(By Advocate Shri M.M. Sudan)

O R D E R (ORAL)

(Hon'ble Smt. Lakshmi Swaminathan, Member (J))

The grievance of the applicant in this case is against the letters dated 2.5.94 and 17.6.94 issued by the respondents directing recovery of damages in respect of over stay¹⁸ in Govt. residence from the pensionary benefits, namely, dearness allowance.

2. I have heard Shri B. Krishan, learned counsel for the applicant and Shri M.M. Sudan, learned counsel for the respondents and perused the records.

3. ¹⁸ The brief facts of the case are that the applicant ^{working as} the who was producer in All India Radio, had gone on secondment to the Hindi Service of BBC London for a period of 2 years from 24.7.94 and the allotment of her quarter - suite No. 450 Asia House was cancelled w.e.f. 25.11.1984 ^{but} she continued in the premises till 27.3.88. The respondents have claimed that for

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this period of over stay in the quarter from the date of cancellation i.e. between 25.11.84 to 27.3.88 an amount of Rs 31,201.30 was due as damages. After her return the applicant was allotted Type D quarter No.A-230, Pandara Road, New Delhi which was occupied by the applicant on 29.2.1988. When the applicant took voluntary retirement from Govt. service w.e.f. 1.4.92, the allotment of this quarter was cancelled w.e.f. 1.8.92 after allowing the statutory period of 4 months on payment of licence fee as admissible under the Allotment Rules. However, the applicant vacated the quarter on 22.3.93. According to the respondents, for this period of over stay by the applicant in Pandara Road quarter from 1.8.92 to 22.3.93, a sum of Rs 22,112.00 has become due. The applicant has not disputed these facts which have been brought out by the respondents in the additional affidavit filed by the respondents on 28.2.97. However, the respondents have stated that in spite of their issuing several demand notices since the applicant had failed to make ^{and 18} the good amounts as mentioned above, Respondents 2 & 3 at the behest of Respondent 1, instructed the State Bank of India ^(SBI) to withhold the aforesaid amounts and to recover the same from the applicant under Rule 72(6) of the CCS Pension Rules, 1972. ^{However,} But the respondents have submitted in the reply that an amount of Rs. 56,784/- has been recovered from the pension amounts due to the applicant upto August, 1996 and respondent 1 has closed the case vide order dated 18.2.97. They have further submitted that this amount which has been recovered by the SBI, has not been remitted to Respondent 1 and they have no intention to disobey the interim order passed by this Tribunal dated 13.1.1995.

4. The main contention of the learned counsel for the applicant was that the aforesaid amounts have been withheld/ recovered from the pensionary benefit dues without complying with the provisions of ~~the~~ Section 7 of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971. In this regard, it is relevant to note that the respondents have themselves admitted that due to over sight such proceedings have not been started.

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by the Estate Officer in accordance with the provisions of the Act, but there is no doubt that the amount has been withheld by the SBI though not remitted to Respondent 1. Therefore, in the facts and circumstances of the case, it is seen that the respondents have recovered an amount of Rs 56,784/- from the pensionary amounts due to the applicant, on account of over stay in the Govt. quarters for the periods mentioned above, without recourse to the provisions of Section 7 of the Public Premises (Eviction of Unauthorised Occupants) Act., 1971.

5. Having regard to the facts and circumstances of the case and the submissions made by the learned counsel for both the parties, this O.A. is disposed of with the following directions:-

- (a) Respondent to hold and complete the proceedings under Section 7 of the PP Act., 1971 within a period of three months from the date of receipt of a copy of this order. The applicant shall fully cooperate in the proceedings ;
- (b) If any amount on the conclusion of the aforesaid proceedings is found due to the respondents on account of the unauthorised occupation of the Govt. quarter by the applicant which has been withheld by the respondents they are allowed to recover the same ;
- (c) If any amount is found to have been withheld in excess of the due amount, the respondents shall return this excess amount to the applicant with 12% interest from the date of such withholding till the date of actual payment to the applicant.

O.A. is disposed of as above. No order as to costs.

Lakshmi Swaminathan
(Smt. Lakshmi Swaminathan)

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Member (J)