

14

CENTRAL ADMINISTRATIVE TRIBUNAL: PRINCIPAL BENCH.

RA NO. 295/95

in

O.A. NO. 109/95

New Delhi this the 17th day of May, 1996.

1. Council of Scientific & Industrial Research,
(A society registered under the Societies
Registration Act) having its office at Rafi
Marg, New Delhi.
 2. National Physical Laboratory,
(A constituent unit of CSIR),
having its office at:
Dr. K.S. Krishnan Marg,
New Delhi.
- ..Review Applicants.

By Advocate Shri D.S. Adel.

Versus

Shri Bhura Ram,
R/o B-2, N.P.L. Qrs.,
New Rajinder Nagar,
New Delhi.

..Respondent.

By Advocate Shri P.L. Mimroth.

O R D E R

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

The Original Application No. 109/95 was filed on behalf of the CSIR for obtaining the possession as well as arrears of penal licence fee in regard to the staff quarter No. B-2, NPL Colony, New Rajinder Nagar, New Delhi which was allotted to the respondent while in the employment of the Publication and Information Directorate of the applicants and which he had failed to vacate even after his voluntary retirement from service w.e.f. 18.1.1991. In my order dated the 18th September, 1995, I had dismissed the application, on the ground that the CSIR was not, in the meaning of Section 19(1) of the

De

15

-2-

Administrative Tribunals Act, 1985, a person aggrieved by an order pertaining to any matter within the jurisdiction of the Tribunal and thus the Tribunal was not the appropriate forum to obtain the reliefs sought for. The applicants have now sought a review of this order, on the ground that the question of jurisdiction of the Tribunal in such matters and the right of the CSIR to agitate the question of vacation of staff quarters which are in unauthorised occupation of its employees, have already been settled in a number of judgements of this Tribunal, e.g. O.A. 2415/89 CSIR Vs. R.B. Lal, O.A. 449/87 of the Patna Bench of the Tribunal and recently in O.A. 353/94 by the Principal Bench on 22.12.1995. Notice was issued to the respondent on this application and the learned counsel for both sides were again heard on 12.4.1996.

2. The facts of the case may be briefly reiterated. The respondent, Shri Bhura Ram, while working as Head Mali in the Publication and Information Directorate of the CSIR, was allotted Staff Quarter No. B-2, NPL Colony, New Rajinder Nagar, New Delhi, on 20.10.1989. He obtained voluntary retirement from service w.e.f. 18.1.1991. Under the normal rules on such retirement, the respondent was entitled to remain in occupation of the aforesaid quarter for a period of three months. However, he was allowed extension of time upto 22.11.1991 on the basis of various applications made by him. He was informed thereafter that the allotment in his name stood cancelled and he was directed to hand over the vacant peaceful possession within six days from the date

dw

of issue of the said order. The case of the applicants is that despite repeated reminders, the respondent had failed to vacate the aforesaid premises and to hand over its vacant possession and thereafter directions were sought from the Tribunal to the respondent to vacate the premises and to pay the arrears of penal licence fee with interest @ 12 per cent per annum on defaulted payment till its realisation.

3. The respondent in his reply admitted that he continued to be in occupation of the premises despite the fact that he took voluntary retirement but explained that this was due to the fact that the applicants had failed to grant him pension and other retirement benefits, in the absence of which it was not possible for him to vacate the accommodation. He also objected to the imposition of the penal rent. Finally he undertook to vacate the premises as and when full gratuity money and other retiral benefits as well as full pension money were paid to him.

4. In the rejoinder, the applicants explained that the pensionary benefits to the respondent could not be given as he had failed to complete the relevant papers and that in any case two matters, namely, the vacation of the quarter and the payment of the pensionary benefits were not interconnected and the respondent could not continue to occupy the applicants' quarter on the plea that the pensionary benefits were not finalised.

der

5. In the background of the above facts, the main question to be considered in this Review Application is regarding the maintainability of the application. The learned counsel for the applicants submitted that this matter has already been settled in a number of decisions of the Division Bench of the Principal Bench as well as the coordinate Benches of this Tribunal and he cited the case of CSIR Vs. K.L. Mago in O.A. 353/94, decided on 22.12.1995. In that case, the CSIR had also sought a direction for vacation of staff quarter from the respondent and to obtain from him licence fee/penal rent till the vacation of the quarter together with electricity and water charges. In that case also, the maintainability of the application was questioned and it was submitted that the CAT had no jurisdiction to entertain the application as the CSIR did not fit into any of the provisions of Section 19, 20, 21 and 23 of the Administrative Tribunals Act to move an application before the Tribunal as it could not be a person aggrieved nor was there any order against it by the employee and the AT Act did not afford an opportunity to the employer (CSIR) to sue the employee. It was noted that in an earlier judgement of the Tribunal in O.A. No. 2415/89, CSIR Vs. R.B. Lal, which was an identical case, the point of jurisdiction had already been settled. The Division Bench in this case also held that the CAT had full jurisdiction over such matters. It was also noted that an SLP filed against the judgement dated 23.3.1992 in O.A. 2415/89 had already been dismissed in limine

Dec

by the Hon'ble Supreme Court. The Tribunal also noted in its order that in S. Tiwari Vs. Union of India, AIR 1975 SC 1329, the Hon'ble Supreme Court had held the CSIR was not a State, nor a statutory body and that being so, the Public Premises Act could not be applicable in respect of accommodation owned by it, and in any event, no Estate Officer had been appointed for the CSIR.

6. On reconsideration of the matter, I find myself in respectful agreement with the views expressed by the Division Bench in O.A. 353/94. This also covers the earlier judgement of the Tribunal quoted in the aforesaid order. I hold that the present application in O.A. 109/95 is maintainable. I, therefore, review my earlier order dated 18.9.1995 and proceed to decide the matter on merits on the basis of the arguments advanced by the learned counsel of both sides and the pleadings on record.

7. As stated above, the basic facts of the case are not in dispute. The respondent after obtaining voluntary retirement w.e.f. 18.1.1991 and the extension of time obtained thereafter till 22.11.1991, has since been in unauthorised occupation of the staff quarter. His plea is that in the absence of finalisation of his pension and other retiral benefits, he is entitled to retain the quarter and, in fact, states that once his pensionary benefits are settled, he will vacate the premises. The applicants say that the non-finalisation of the pensionary benefits is due to the default of the respondent himself as he has not completed and submitted the necessary

Dw

papers. This is also admitted by the respondent though he says that it is because his wife refuses to complete certain papers due to strained relations with her. Obviously, it is not the responsibility of the applicants to persuade the wife of the respondent to complete the pension papers and they cannot be faulted for non-finalisation of the pensionary case of the respondent. I am also satisfied with the plea taken by the learned counsel for the applicants that the vacation of the quarter and the finalisation of the pension case which is in large measure due to the default of the respondent himself, are not interconnected. The conclusion is inescapable that the respondent has no case whatsoever to continue in occupation of the quarter allotted to him while in service after 22.11.1991 and he is, therefore, not only liable to be evicted but he is also liable for payment of the penal rent.

8. In the result, the application is allowed and the respondent is directed to hand over the vacant possession of the premises, in question within one month from the date of receipt of a copy of this judgement. In the event that the respondent defaults, it would be open to the applicants to get the possession of the premises after evicting the respondent in the same manner as is available to the Director of Estates in respect of Central Govt. Pool accommodation. Furthermore, I direct that the penal licence fee and connected charges due against the respondent be also recovered from him as per rules for which purpose the applicants

See

20

-7-

may fix suitable instalments so that the recoveries are made in a phased manner. In the event that the respondent defaults, it would be open to the applicants to effect recoveries in the same manner as the Director of Estates effects such recoveries in respect of penal licence fee dues relating to Central Govt. Pool accommodation.

8. The Review Application is disposed of in terms of the above directions. There will be no order as to costs.

R.K. Ahooja
(R.K. Ahooja)
Member (A)

'SRD'

20