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Central Administrative Tribunal
Principal Bench

O.A.No.1126/2000

Hon'ble Shri Shanker Raju, Member(J)

New Delhi, this the 27th day of May, 2002

Om Prakash Joshi
s/o Shri Hari Ram Joshi
r/o T-108 (1-2) Lower Anand Parbat
New Delhi - 110 005. ... Applicant

(By Advocate: Sh. A.K.Trivedi)

Vs.

1. Union of India through
It's Secretary
Ministry of Defence
South Block, New Delhi.
2. Station Commander
Station Headquarters
Delhi Cantt.-110 010.
3. The UA BSO (Red Fort)
Delhi - 110 054. ... Respondents

(By Advocate: Sh. S.Mohd. Arif)

O R D E R (Oral)

By Shanker Raju, M(J):

Heard the parties.

2. Applicant, who retired on 31.10.2000, impugns the respondents' letter dated 17.5.2000 whereby he has been ordered to be recovered from him a damage rent in pursuance of letter dated 11.1.1995. He has sought quashing of the order dated 17.5.2000.

3. Applicant, who was allotted Government accommodation in December, 1968 has retained the same till his retirement, i.e., 31.10.2000. Respondents issued an order dated 10.7.1995 observing that this accommodation as temporary and the applicant was an unauthorised occupant, directed him to vacate the aforesaid accommodation and in addition payment of

damage rent at the rate of Rs.40/- per sqr. meter has been ordered. Applicant impugns this order in OA 1650/1995. By an order dated 11.10.1995 directions have been issued to the respondents to follow the provisions of Section 4 and 5 of the P.P.Act, 1971 and to give an opportunity to the applicant regarding eviction and damage rent in accordance with law. By making these observations the OA was disposed of.

4. Learned counsel for applicant, contended that he immediately, on retirement, handed over the vacant and peaceful possession of the accommodation to the respondents and during this interregnum period from 1995-2000 no show cause notice has been served upon him and further no proceedings under the P.P.Act have been taken by the respondents in respect of this accommodation. It is by this impugned order without following the directions of this Court earlier recovery of damage rent has been ordered against him which according to him is in violation of principles of natural justice and as well as wilful disobedience of this Tribunal's directions issued earlier.

5. On the other hand, respondents have contended that the action taken by them is in consonance with the P.P.Act, 1971 and notice was issued to him with the intention to follow the principles of law and the matter stood transferred to Estate Officer's Court. On being pointed out by this Bench. as to what action has been taken consequent upon the directions of this Court or any proceedings under P.P.Act, or any show-cause notice has been served upon the applicant, the respondents have not satisfactorily replied.

6. After carefully considered the rival contentions of the parties, in my considered view the earlier decision in OA 1650/95 mandated the respondents before ordering any recovery on account of damage rent, to have resorted to principles of natural justice by issuing a show cause notice and according him a reasonable opportunity. No proceedings under P.P. Act, 1971 have been started, as this is not forthcoming from the reply filed by the respondents.

7. In this view of the matter, the order passed by them on 17.5.2000 cannot be a valid compliance of this earlier directions given in the aforesaid OA or the respondents have not taken any proceedings under the P.P. Act, 1971 in consonance with the principles of the natural justice or the recovery of damage rent has been ordered without affording any reasonable opportunity as per rules.

8. Having regard to the reasons recorded above, the impugned order is not sustainable and is accordingly quashed and set-aside. However, this would not preclude the respondents from taking appropriate action against the applicant in consonance with the principles of natural justice and in accordance with law. The OA is disposed of accordingly. No costs.

S. Raju
(Shanker Raju)
Member(J)

/rao/