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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A.No.1342/2000

Hon'ble Shri Justice V.Rajagopala Reddy, VC(J)

New Delhi, this the 11th day of December, 2000.

Shri V.R.Shukla
s/o late Shri Arjun Prasad Shukla
working as Asstt. Supdt.
in National Sample Survey Organisation(FOD)
Ministry of Planning, Govt. of India
and posted at Ganganagar and
r/o Near Sukwant Cinema
Purani Abadi
Sriganganagar
Rajasthan.

... Applicant

(By Shri S.S.Tiwari, Advocate)

Vs.

1. Union of India through
Secretary
Ministry of Urban Development
Nirman Bhawan
New Delhi.

2. Director of Estates
Directorate of Estates
Nirman Bhawan
New Delhi.

3. Assistant Estate Manager
Ministry of Urban Development
C.G.O.Complex, N.H IV
Faridabad (Haryana).

4. Dy. Director
National Sample Survey Organisation
Field Operations Division
Sector VII, 70/149-154
Patel Marg
Mansarovar Garden
Jaipur - 20.

... Respondents

(By Mrs. P.K.Gupta, Advocate)

O R D E R (Oral)

Heard the counsel for the applicant and the respondents. The applicant was an allottee of a Government quarter. He was transferred from Faridabad to Port Blair on 12.5.1992. The applicant was allowed to retain the accommodation till he joined at Port Blair on 22.6.1992. By order dated 30.3.1993 the allotment of the quarter was cancelled on the ground

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that he was unauthorisedly absent from duty w.e.f 4.8.1992 to 19.4.1993. By the impugned order the applicant was directed to deposit the outstanding amount on account of damages during the period of overstay.

2. The learned counsel for the applicant submits that in view of the judgement of the Tribunal in OA No.1830/92 and MP 1748/93, the applicant was not liable to pay the penal rent/damages during the period in question.

3. Heard the counsel for the applicant and the respondents. In the impugned order the applicant was reequested to deposit the amount on the ground that he was unauthorisedly absent from duty during the period from 1.8.1992 to 19.4.1993 and hence he was liable to pay the penal rent for that period. Meanwhile, the respondents passed the order dated 27.4.2000 directing recovery of the alleged damages in 35 instalments at Rs.1275/- for each instalment and the last instalment at Rs.1260/-. This order is also impugned in this OA.

4. As seen from the impugned order itself the only consequence of non payment of the said amount, would be to render the applicant liable for action for recovery of the amount by way of damages under the Public Premises (Eviction of unauthorised occupants) Act, 1971 (for short, the Act). Hence in my view, the order of recovery from the salary of the applicant is not permissible under law. Further, unless an order was passed under the above Act, directing the

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applicant to pay the such damages, the Deputy Director of Estates who passed the impugned order has no jurisdiction to direct the applicant to pay damages. In the circumstances, the order dated 27.4.2000 is quashed.

5. It is however open to the respondents to initiate action under the Act. in accordance with law.

6. What ever amount is recovered from the applicant, it may be refunded within two months from the date of receipt of a copy of this order.

7. The OA is accordingly allowed. No costs.

V. Rajagopala Reddy

(V. RAJAGOPALA REDDY)
VICE CHAIRMAN(J)

/RAO/