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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

D.A.No. 2498/89.

Date of decision 10.2.1993.

VINOD KUMAR PEER ...

Applicant

v/s

Union of India ... Respondents
and Others.

CORAM:

The Hon'ble Member Mr. C.J. Roy, Member (J)

For the applicant ... None

For the respondents.. Shri P.P. Khurana

JUDGEMENT

Delivered by Hon'ble Mr. C.J. Roy, Member (J) 7

In this application filed under Section 19 of the Administrative Tribunals Act, 1985, the applicant has prayed for quashing the impugned order dated 7.4.1989 and claimed relief by giving a direction to the respondents to regularise the occupation of the applicant of quarter No. F-153, Moti Bagh II (Nanak Pura), New Delhi and restraining the respondents from evicting the applicant from the said quarter.

2. The applicant was appointed as a Lower Division Clerk on 3rd November, 1978 with the respondents. The father of the applicant was

occupying the said quarter and since December 1958, the applicant is also living with the father in the said premises.

3. The applicant's father retired on 31.1.1981. Then the applicant applied for regularisation of the said quarter in his name. Subsequently, a raised rent was demanded from the applicant's father since 31st March 1988. The rent was paid upto 31st March, 1988. A representation was also made as stated supra to regularise that quarter in the name of the applicant. He was not replied by the respondents. The applicant also requested his Departmental Authorities not to allow him HRA etc. The applicant's father's retirement was under dispute and due to that dispute being unsettled, the father of the applicant continued to stay in the said quarter. After the eviction orders are passed, the applicant's father had gone to court disputing the order of eviction on 7.4.1989. The appeal filed by the applicant's father against the orders of eviction was dismissed by the Appellate Court under the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 on 23rd October, 1989.

But the applicant's father was contesting his case with the authorities afterwards. The application of the applicant dated 5.8.1981 was not replied by the respondents and on 13th June 1989 he made a representation to the Minister and it was also not replied which is at Annexure 'E'. Annexures 'A', 'B', 'C' & 'D' are the representations of the applicant. Hence, aggrieved by the non-reply and having been threatened of eviction, he filed this application claiming the above said reliefs.

4. The respondents have filed a counter denying that no application for regularisation of the said quarter in the name of the applicant was received in 1981 and so the representation dated 30th March 1989 had been rejected by the competent authority. They also states that the applicant did not pay any rent from March 1983 to 1988 and he was reminded by them. They deny the knowledge of the avernment made on the application and other points. The appeal filed by the applicant against eviction was dismissed by the Appellate Court as stated supra.

The respondents further states that the case of applicant for regularisation of accommodation in his name could be considered only per allotment rules contained in order No. 12035/14/82-POL.II/Vol.II (1), dated 9.11.1987 which states that a quarter is regularised in the name of the dependent from the date on which that quarter is cancelled in the name of the allottee. It is thus implied that the depending ward should, in any case, apply for regularisation before the date of cancellation of the quarter but in the present case the cancellation in the name of the applicant's father was made on 30th March 1981. Therefore his request for regularisation in the year 1988 is not maintainable according to the said O.M. (Annexure A). There was no opportunity for them to regularise since there was no application. Non-receipt of HRA alone will not entitle regularisation of accommodation in his name. Decision of the Estate Officer has become final and that cannot be called to question without setting aside that order by means of an appeal to the Session Court as provided in the Public Premises

(Eviction of Unauthorised Occupants) Act, 1971.

The applicant's father had filed an appeal against the Estate Officer's order in question and this was also dismissed.

5. This case could have been decided at the time of the admission itself. However, an interim order was passed against the eviction and that order continued till date. The actual cause of action for filing this application arose only in the year 1981 i.e. long prior to the three years of 1.11.1982 when the Administrative Tribunals Act came into force in 1985. Section 21 defines limitation for filing the application in the Tribunal. The ordinary clause of limitation Act will not apply to this case in the C.A.T. (Act 13 of 1985) 44.

6. The limitation is prescribed under Section 21 of the Administrative Tribunals Act. Section 21(2)(b) states that no proceedings for the redressal of such grievance had been commenced before the said date before any High Court. The application shall be entertained by the Tribunal if it is made within the period referred to in Clause 'A' or as the case may be. Clause 'B' of Sub-Section (1) states that it should be within a period of six months of the said

date which ever period prescribed earlier.

Section (2)(a) reads as under :-

Notwithstanding anything contained in sub-section(1),

where -

(a) " the grievance in respect of which an

an application is made had arisen by

reason of any order made at any time

during the period of three years immedi-

ately preceding the date on which

the jurisdiction, powers and authority

of the Tribunal becomes exercisable

under this Act in respect of the matter

to which such order relates; and

(b) no proceedings for the redressal of such

grievance had been commenced before the said

date before any High Court,

This Act came into force w.e.f. 1.11.1985 i.e. if three

years are deducted beyond 1.11.1982 any cause of

action unless it has got a continuous grievance, which

is attributable, has no jurisdiction to entertain the

application as stated supra. The cause of action

for the applicant has arisen in 1981 but he chooses

to make a representation to the Minister in 1988.

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But this O.A. is filed on 12.12.1989 when the cause of action once starts running from 1981 will not stop running. The cause of action arose in 1981 and his representation dated 1988 will not give a fresh cause of action to the applicant. Therefore the dismissal of the case of the Estate Officer as well as the dismissal of the appeal of the District Judge have happened long before and the cause of action already started which cannot ^{as} earlier stated to be revived by a fresh representation in 1988 by the applicant to file this O.A. in December, 1989. The application is not only clearly time barred but also this Tribunal has no jurisdiction to entertain this case.

7. Under the circumstances this O.A. is dismissed for lacking jurisdiction and also on the point of limitation. The Interim Orders are vacated. The O.A. is dismissed with no order as to costs.

W. Roy
(C.J. Roy)
Member (J)