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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

Regn.No.OA-425/90

Date of decision: 04.04.1990.

Shri J.B. Mohindra

.....Applicant

Vs.

Union of India & Others

.....Respondents

For the Applicant

.....Shri A.K. Behra,
Counsel

For the Respondents

.....Shri George
Paracken, Estate
Officer

CORAM:-

THE HON'BLE MR. P.K. KARTHA, VICE CHAIRMAN(J)

THE HON'BLE MR. D.K. CHAKRAVORTY, ADMINISTRATIVE MEMBER

1. Whether Reporters of local papers may be allowed to see the Judgment? *Yes*
2. To be referred to the Reporters or not? *No*

O R D E R

(of the Bench delivered by Hon'ble Shri P.K. Kartha,
Vice Chairman(J)).

The applicant, who retired on 31.8.1989 as Principal Scientific Officer in the Defence Aeronautical Quality Assurance Service under the Directorate of Technical Development and Production(Air) in the Ministry of Defence has filed this application praying for various reliefs including issue of a direction to the respondents to give him the benefit of the judgment in K.T. Shastri's case whereby the Supreme Court has held that Shri K.T. Shastri, who is similarly placed, will retire only at the age of 60 years and not 58 years. By way of interim relief, the applicant has prayed that the respondents be restrained from evicting him from the Government quarter

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at D-II/83, Kidwai Nagar East, New Delhi, which is in his possession, during the pendency of the application.

2. The application was admitted on 16.03.1990 when an ad interim order was passed in terms of his prayer for interim relief and notice was issued to the respondents.

3. We have heard the learned counsel of the applicant and Shri George Paracken, the Estate Officer on behalf of the respondents on 30.03.1990. Shri Paracken stated that in case the applicant succeeds in the present application, the respondents will give him suitable accommodation.* However, as eviction order has already been passed in the case of the applicant, he submitted that the interim order passed by the Tribunal may be vacated. In this context, he referred to similar orders being passed by the other Benches of the Tribunal after the Supreme Court stayed the operation of the Full Bench judgment and order of this Tribunal dated 5th May, 1989 in Rasila Ram's case (1989(2) SLJ 342 CAT).

4. The Full Bench had held in Rasila Ram's case that "where proceedings have been started under the P.P. Act, it would be proper for the aggrieved employee to contest his case before the Estate Officer and may approach the Tribunal only after final orders have been passed by the Estate Officer under the P.P. Act". In the instant case, the Estate Officer had already passed the eviction order. The operation of the judgment of the Full Bench of the Tribunal has been stayed by the Supreme Court by its order dated 4th September, 1989.

5. The counsel for the applicant stated that the effect of the stay order passed by the Supreme Court only means that the respondents are not bound to implement the order and that the proposition that has been laid down by the Full Bench cannot be overlooked by a Division Bench of this Tribunal and a different view cannot be taken.

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6. In this context, he drew our attention to a judgment dated 22.2.1990 delivered by another Division Bench of this Tribunal in Dr. Ashok Kumar Vs. Union of India & Others (OA 1029/88).

7. In the instant case, the applicant had retired on 31.08.1989 and the main relief in the present application is that he should be extended the benefit of the judgment of the Supreme Court in K.T. Shastri's case on 12.1.1990. The applicant has not prayed for any interim order directing the respondents to continue him in service beyond the age of 58 years in terms of the judgment of the Supreme Court in Shastri's case nor has any such order been passed by the Tribunal at the time of admission of the application. The applicant is no longer in service for the past 7 months. The eviction proceedings have been initiated by the Estate Officer under the provisions of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971. As the applicant is not in service and the prayer for retention of the Government quarter is not made while being in service, we do not consider it appropriate to continue the interim order passed on 16.3.1990 regarding retention of Govt. quarter. Neither the Full Bench judgment nor the order passed by the Supreme Court staying its operation is strictly relevant in the context of the present application.

8. In the interest of justice, we, however, direct that the applicant shall not be physically dispossessed from the Govt. accommodation for a period of ten days from 4.4.1990 during which period he may, if he so chooses, move appropriate forum for appropriate reliefs. The interim order passed on 16.3.1990 will stand vacated with effect from 15.4.1990.

Issue copy of this order today to the parties.

D.K. Chakravorty
(D.K. CHAKRAVORTY)
MEMBER (A)

4-4-1990

P.K. Kartha
(P.K. KARTHA)
VICE CHAIRMAN(J)