

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL NEW DELHI

O.A. No. 1835/1991
T.A. No.

199

DATE OF DECISION 23.9.91

D.P. Srivastava

Petitioner

Shri J.K. Bali

Advocate for the Petitioner(s)

Versus

Union of India

Respondent

Shri S.K. Sikri

Advocate for the Respondent(s)

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The Hon'ble Mr. Justice Ram Pal Singh, Vice-Chairman (J).

The Hon'ble Mr. Shri P.C. Jain, Member (A).

1. Whether Reporters of local papers may be allowed to see the Judgement ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the Judgement ?
4. Whether it needs to be circulated to other Benches of the Tribunal ?

(Judgment of the Bench delivered by Hon'ble Shri Justice
Ram Pal Singh, Vice-Chairman (J).)

J U D G M E N T

By this O.A., filed under Section 19 of the Administrative Tribunals Act of 1985 (hereinafter referred as 'Act'), the applicant prays for quashing the order issued by the respondents (Annexure A-17) ordering the recovery of the damage rent with effect from 11.5.91. Another prayer is to direct the respondents to allow the applicant occupation of the existing quarter till the allotment of an alternative accommodation from the General Pool.

2. The applicant belongs to Indian Telecommunication Service and at the time of filing this O.A. was working as Director, Networks at Telecom. Commission Headquarters at New Delhi. He was in occupation of Quarter No. T-45, Atul Grove Road, New Delhi, which was allotted to him on 12.5.1983 on the basis of his

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seniority when he was working as D.G.M. (Administration) in Delhi Telephones, now called Mahanagar Telephones Nigam Ltd. (hereinafter referred as 'MTNL'). From MTNL, the applicant was transferred and posted as Director, Networks, at Telecom. Commission Headquarters at New Delhi with effect from 10.9.90. On 11.10.90, he submitted an application to the Director of Estates, Nirman Bhavan, New Delhi, for allotment of D-1 quarter under General Pool as per his entitlement. He also requested the General Manager (Personnel) of MTNL to transfer his service book to the Pension Section of the Telecom. Directorate, but the same was not done. This living quarter was allotted to the applicant by the MTNL. The applicant requested the MTNL, the respondents, that the allotment of his existing quarter may not be cancelled till he receives an alternative accommodation and, inter alia, requested that he should be allowed to retain the existing accommodation at normal rent. Vide Annexure A-16, the respondent authorities directed the Deptt. of Telecommunications to recover Rs. 10,495/- in addition to regular recovery of damage i.e. Rs. 5696.55 p.m. with effect from 1.7.1991. The respondents did not heed the prayer of the applicant. Hence, he filed the present O.A.

3. The Tribunal on 13.6.91 issued notice to the respondents and granted interim relief to the applicant and directed the respondents not to charge the rent at penal rate.

4. The respondents who appeared through Shri A.K. Sikri, without filing any return, raised a preliminary objection that this Tribunal cannot exercise jurisdiction over respondent No. 2 and hence the O.A. filed cannot be admitted and no relief can be granted to the applicant. Section 14 of the Act describes the jurisdiction, powers and authority of the Tribunal mentioned in this Section. Sub-section (2) of Section 14 of the Act is reproduced below for convenience:

"The Central Government may, by notification, apply with effect from such date as may be specified in the notification the provisions of sub-section (3) to local or other authorities within the territory of India or under the control of the Government of India and to corporations or societies owned or controlled by Government, not being a local or other authority or corporation or society controlled or owned by a State Government...."

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It thus provides that the Central Government may, by notification, bring within its orbit the jurisdiction of the corporations and societies owned or controlled by the Government. It is admitted by Shri J.K. Bali, learned counsel for the applicant, that no notification has been issued by the Central Government under sub-section (2) of Section 14 of the Act bringing respondent No. 2 within the jurisdiction of this Tribunal. In such a situation, prima facie, the preliminary objection of the respondents has to be sustained, but the learned counsel for the applicant cited the case of Dr. Shree Krishan (Division Bench judgment of the Allahabad High Court reported in SLR 1990(5) p. 251) and contended that unless the employee on deputation is absorbed in the society, he remains an employee of the Central Government. Hence, this Tribunal has the jurisdiction. He also relied upon the case of Pritam Lal Vs. U.O.I. & Ors. decided by the Jabalpur Bench of this Tribunal (SLR 1987 (3) p. 532) and of Dr. D.C. Sen vs. GM, N.F. Railways & Ors. (1990 (13) A.T.C. p. 54) decided by the Guwahati Bench of this Tribunal. In these cases it was held that in the absence of notification under Section 14(2) of the Act, this Tribunal cannot entertain any application. He has also cited several cases decided by different Benches of the Tribunal.

5. We have carefully considered the contentions of Shri Bali and are inclined to reject the same because the applicant was allotted this accommodation by the MTNL when he joined it. Now, he has left the MTNL and gone to his parent Department. The accommodation belongs to the MTNL which is not amenable to the jurisdiction of this Tribunal in the absence of any notification under sub-section (2) of Section 14 of the Act.

6. Consequently, it is directed that the O.A. be returned to the applicant for filing it before any forum having jurisdiction over the respondents, if so advised. The interim order passed by this

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Tribunal on 13.8.91 stands vacated. Parties shall bear their own costs.

23/9/1991
(P.C. JAIN)

MEMBER (A)

23.9.91
(RAM PAL SINGH)

VICE-CHAIRMAN (J)