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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

C.C.P. NO. 100/92 in
O.A. NO. 1748/91

DECIDED ON : 19.5.1992

Dr. Yadu Lal

... Petitioner

-Versus-

Dr. P. C. Rai

... Respondent

CORAM : THE HON'BLE MR. JUSTICE V. S. MALIMATH, CHAIRMAN
THE HON'BLE MR. P. C. JAIN, MEMBER (A)

For the Petitioner - Shri Wattan Singh, Counsel

For the Respondents - Mrs. Rajkumari Chopra, Counsel

ORDER (ORAL)

Hon'ble Mr. Justice V. S. Malimath, Chairman :-

The complaint in this case is that the ex-parte interim order made by the Tribunal in favour of the petitioner on 2.8.1991 and further continued on 14.8.1991 has been contumaciously violated. On 2.8.1991 an ex-parte interim order came to be made directing the respondents not to allot accommodation for a period of 14 days to anyone who is junior to the petitioner in the list Annexure A-1. It is the petitioner's case that after notice was served on the respondents, the matter was taken up for consideration on 14.8.1991 and the interim order was continued. It is this interim order which is alleged to have been violated by the respondents by making allotment of the premises in favour of persons at Sl. No. 3, 8, 9 and 10 of the list Annexure A-1, who are all juniors to the petitioner, who is at Sl. No. 2. The allotment was made, according to the petitioner, on 11.11.1991, 20.1.1992, 22.2.1992 and 19.2.1992 respectively. If the petitioner is right in maintaining that there was a subsisting interim order which was granted on 2.8.1991,

on the dates on which these four persons were allotted accommodation by the respondents, we have to take action against the respondents for violation of the interim order of the Tribunal. But the stand taken by the respondents in their reply is that there was no subsisting interim order after 6.9.1991 and that, therefore, nothing prevented them from allotting the premises according to their best judgment. Hence, the crucial question for examination is as to whether the interim order was in force after 6.9.1991.

2. Under Section 24 of the Administrative Tribunals Act, 1985, an ex-parte interim order can be made, if there are special circumstances justifying such^a course of action for reasons to be recorded in writing, which shall remain in force for a period of 14 days. It is further provided that the said order can be continued after considering the reply of the respondents beyond the expiry of the 14 days.

3. Copies of the relevant orders have been produced and we have perused the same. On 2.8.1991, an ex-parte interim came to be made. The order directs the listing of the case for hearing on interim relief on 14.8.1991 and on 6.9.1991 for hearing on admission. The interim order further directs that the respondents shall not allot the accommodation for a period of 14 days to anyone junior to the applicant in the list Annexure A-1. The respondents were duly served and the matter was listed before the Court on 14.8.1991 for considering the question of continuing the interim order. The first part of the order made on that date shows that the respondents' counsel opposed the interim order and prayed for time for filing return. The Tribunal directed that the case should be listed on 6.9.1991. There is a further order made later in the course of the day stating that the documents

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filed by the parties were perused noting the rival contentions urged by the counsel on both sides. After noting the stand taken by the parties, the Tribunal observed that at this stage in the absence of any return, it is not possible to adjudicate on the stand taken by the respective parties. The Tribunal then proceeds to observe that "The applicant, if aggrieved, can take the steps according to law. However, whatever the position of the interim order is, it shall continue as directed earlier." On 6.9.1991, after hearing the arguments of the parties, the Tribunal observes that it is a fit case for admission and makes an order regarding admission. It directs the case being listed in its own turn for hearing. There is no specific order one way or the other either continuing or making the interim order absolute or vacating the same. So, what we have to do, therefore, is to ascertain if the interim order made earlier on 2.8.1991 was further continued and if so, upto what date. We have already summarised the contents of the order dated 14.8.1991 in the previous paragraphs. The Tribunal granted time to Mrs. Chopra, learned counsel appearing for the respondents to file return and directed the case being listed on 6.9.1991. The Tribunal after noting the rival contentions in regard to the interim order, expressed that it was not possible at that stage in the absence of any return to adjudicate on the stand taken by the rival parties. In other words, the Tribunal was not in a position to make up its mind one way or the other in regard to the interim order in the absence of appropriate return. It is in this background that the Tribunal made a further direction that whatever the position of the interim order is, it shall continue as directed earlier. Now the question for examination is as to whether this has the effect of making the interim order absolute or continue it till

the disposal of the case for admission or till the final disposal of the case. It would not be reasonable to interpret the order to mean that the interim order was made absolute for the reason that the Tribunal has itself stated that it is not possible to make up its mind one way or the other until an appropriate return is filed by the respondents. It is in this background that we should understand what has been conveyed by the last sentence in the order of the Tribunal dated 14.8.1991. It says that the interim order shall continue as directed earlier. As the consideration of the question as to whether the interim order should be continued or not has been deferred for want of return and as time was granted for filing return till 6.9.1991, the only reasonable inference to be drawn is that the interim order was continued till 6.9.1991. On 6.9.1991 the return having been filed, it was open to the Tribunal to make further order either continuing or vacating the interim order. In the order dated 6.9.1991, there is no mention whatsoever either about continuance or about vacation of the interim order. Hence, it follows that the interim order was not continued by order dated 6.9.1991. We have already held that the interim order was continued till 6.9.1991. Hence, it is not possible to take the view that there has been contumacious violation of the interim order passed by the Tribunal when the respondents made allotment in favour of persons who are juniors to the petitioner in the list Annexure A-1 after 6.9.1991. Hence, no action under the Contempt of Courts Act is called for.

4. This does not mean that the petitioner cannot move the Tribunal on the original side in the matter pending before it for appropriate directions.

5. For the reasons stated above, this C.C.P. fails and the same is accordingly dismissed. No costs.

(P. C. Jain)
Member (A)

(V. S. Malimath)
Chairman