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CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH,
NEW DELHI.

O.A. No. 891/91

New Delhi: ~~11~~¹² August, 1995.

HON'BLE MR. S.R. ADIGE, MEMBER(A)

HON'BLE MRS. LAKSHMI SWAMINATHAN, MEMBER(J)

Shri N.L.Duggal,
r/o A-8/15, Vasant Vihar,
New Delhi.Applicant.

By Advocate Shri Ashok Agarwal.

Versus

1. Assistant Director,
Estates (Estate Officer),
Nirman Bhawan,
New Delhi.

2. Director of Estates,
Nirman Bhawan,
New Delhi.Respondents.

By Advocate Shri C.Hari Shanker, proxy counsel
for Shri Madhav Panikar.

JUDGMENT

By Hon'ble Mr. S.R. Adige, Member(A)

The facts of this case lie within a narrow compass.

2. The applicant Shri N.L.Duggal, allottee of Govt. quarter No. D-1/157, Satya Marg, Chanakyapuri, New Delhi, superannuated on 30.6.85. Under Rules at that time in force he was permitted to retain the accommodation for two months on payment of standard license fee, and could be permitted for a further period of six months on double the normal license fee on medical grounds/ educational requirements of his children. The applicant contends that he requested the Director of Estates on 23.8.85 (Annexure-A) for permission to retain the quarter till 31.12.85, but no response was received to this request and the allotment was cancelled vide letter dated 19.8.85 w.e.f. 1.9.85.

which was received through Finance Ministry's letter dated 16.10.85 (Annexure-B (Colly)). The applicant contends that since he had already moved the Director of Estates for permission to continue occupying the quarter for 4 months, he did not vacate the premises, whereupon the respondents initiated eviction proceedings against him pursuant to which notice under sec. 4 P.P. Act dated 28.9.85 was issued to him requiring him to appear and show cause before the Dy. Director of Estates on 24.10.85. The applicant states that he accordingly appeared before the Dy. Director, who by his order dated 4.11.85 (Annexure-C) granted permission to the applicant to stay on in the said premises till 31.12.85, and the order did not require him to pay market rent or damages for this extended period of stay. Thereafter, as the repairs to the applicant's own house were not complete, he made another request for further extention of 19 days from 1.1.86 to 19.1.86, to which no reply was received, and after a further period of 13 days, he finally vacated the quarter on 1.2.86.

3. The applicant further states that the first inkling he received of the respondents' intention to charge him damages/ penal rent for the extended period of stay was their letter dated 15.1.86 raising a demand of Rs. 4,157-45 from him and informing him that he would be required to pay Rs. 3774/- p.m. for occupation of the quarter beyond 31.12.85 (Annexure-B). After further correspondence in this regard he was issued a notice under section 7(3) PP(EUO) Act by the Estates Officer calling upon him to appear and show cause

why he should not be called upon to pay damages amounting to Rs. 9028-35, in response to which he submitted his reply dated 31.8.89 (Annexure-I Colly). On the last date of hearing i.e. 13.12.90, the applicant states he could not be present and requested for an adjournment, but without considering that request, ^{a. impugned} the Estates Officer passed ~~orders~~ on 18.1.91 (Annexure-J) requiring the applicant to pay damages amounting to Rs. 9028-35 together with simple interest thereon for unauthorised occupation of the premises.

4. No reply has been filed by the respondents inspite of service of notice and several opportunities being given to them to do so.

5. We have heard Shro Ashok Agarwal for the ^{Harishankar} applicant and Shri ~~Harishankar~~ for the respondents.

6. No reply has been filed by the respondents, but Shri Harishankar argued forcefully that as the Estate Officer by his order dated 4.11.85 (Annexure-C) under Section 5(1) P.P.(EUO) Act had found the applicant to be in unauthorised occupation of the premises, the respondents were perfectly entitled to recover penal license fee/ damages from him with effect from that date. We take note that in respondents' letter dated 20.4.86 (Annexure-G) they admit that the applicant was permitted to retain the premises in question by D(Litigation) upto 31.12.85 , but in the same breath state that the applicant is required to pay market license fee from the date of cancellation under the rules. The applicant's contention is that when he was admittedly permitted to retain the premises in question till 31.12.85 he cannot be

held to have been in unauthorised occupation of the same to warrant levy of market rent/ damages, and we note that this is one amongst the specific objections taken by the applicant in his reply dated 31.8.89 (Annexure-I Colly) to the show cause notice under section 7 (2) PP(EUO)Act, but from copy of the impugned order dated 19.1.91 calling upon the applicant to pay Rs.9028/- as damages, filed with the O.A., it appears that neither this nor the other objections raised by the applicant in his reply dated 31.8.89 have been discussed. In fact, the impugned order dated 19.1.91 appears to have been ~~signed~~ ^{passed in} mechanically, *without proper application of mind,* and is not a reasoned, speaking order, because it states both that the Estate Officer has considered the objections and the evidence produced by the applicant, as well as that the applicant has not produced any evidence or made any objections.

7. As stated earlier, the respondents have also not filed any reply to throw light on their version of the matter, *despite numerous opportunities given to them to do so.*

8. It is well settled that the Estate Officer administering the P.P.(EUO) Act performs a statutory function and his orders have to be reasoned and speaking ones. As the impugned order dated 19.1.91 gives no reasons and is not a speaking order, it cannot be sustained and is therefore quashed. It will, however, be open to the respondents to pass fresh orders in the matter, but in the event they do so, the order should be a detailed, reasoned and speaking one, and should be passed only after the applicant has been given an opportunity of being heard.

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9. This O.A. is disposed of accordingly.

No costs.

Lakshmi Swaminathan
(LAKSHMI SWAMINATHAN)
MEMBER (J) 218

S. R. Adige
(S. R. ADIGE)
MEMBER (A)

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