

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

(16)

O.A. NO. 1759/92

DECIDED ON : 07.06.1993

SUBE LAL

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PETITIONER

VS.

UNION OF INDIA & ORS.

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RESPONDENTS

CORAM :

THE HON'BLE MR. I. K. RASGOTRA, MEMBER (A)
THE HON'BLE MR. J. P. SHARMA, MEMBER (J)

Shri G. S. Begrar, Counsel for Petitioner
Shri H. K. Gangwani, Proxy Counsel for Shri
Shyam Moorjani, Counsel for Respondents

JUDGMENT (ORAL)

Hon'ble Mr. I. K. Rasgotra, Member (A)

We have heard the learned counsel for the petitioner. The facts of the case are that the petitioner was transferred from Gang No.4 to Gang No.2 vide order dated 21.7.1985. He was also asked to vacate the quarter allotted to him by virtue of being in Gang No.4. He was further addressed a communication on 15.9.1985 directing to vacate the quarter within ten days failing which he would be liable to payment of rent at the penal rate. It appears that from 1985 onwards the rent was recovered from the petitioner at penal rate. He filed a petition under the Payment of Wages Act before the prescribed authority at Meerut. The said authority vide order dated 23.10.1991 directed the respondents to refund Rs.20,867/-

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recovered from the petitioner as penal/damage rent along with compensation amounting to Rs.2,08,670/- totalling to Rs.2,29,537/-.. The penal rent ordered to be refunded is for the period 22.6.1985 to 23.7.1991. According to the learned counsel for the petitioner, the respondents filed an O.A. before the Allahabad Bench of the Tribunal against the order of the prescribed authority under the Payment of Wages Act and have obtained a stay order against the refund of the amount of penal/damage rent recovered along with the compensation awarded by the said prescribed authority. In this O.A. filed on 3.6.1992, the petitioner has prayed for relief to refund the amount of penal rent recovered from him from 23.7.1991 onwards and further to restrain the respondents from effecting recovery of penal rent from him permanently. The cause of action in this case arose in July, 1985 when the petitioner was transferred from Gang No.4 to Gang No.2 and subsequently in September, 1985 when he was directed to vacate the quarter under his occupation which was allotted to him when he was in Gang No.4 within ten days from 15.9.1985, as he had been allotted a Railway quarter at Gotra which was his new place of posting in Gang No.2. The petitioner, however, chose to file a petition before the prescribed authority under the Payment of Wages Act for seeking refund of the amount recovered from him as penal/damage rent for the period July, 1985 to July, 1991. For the period thereafter he

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has chosen to file this O.A. at the Principal Bench for which the Hon'ble Chairman has granted permission for retention at the Principal Bench vide order dated 28.5.1992. (8)

2. As adverted to earlier, the prescribed authority passed an order granting the relief to the petitioner vide order dated 23.10.1991. This order has been challenged by the respondents in OA 1351/92 in Union of India & Ors vs. Sube Lal & Anr. before the Allahabad Bench of the Tribunal. The Allahabad Bench is stated to have given an interim order granting stay to the respondents from payment of the rent as awarded to the petitioner. For the same cause of action which the petitioner agitated before the prescribed authority under the Payment of Wages Act, he has chosen to come to the Principal Bench in 1992. Thus, while the cause of action is the same, the periods for which he has agitated the matter at Meerut and at the Principal Bench are different.

3. After carefully considering the matter, we are of the opinion that the petitioner cannot agitate the same cause of action in different forums. The issue involved in the OA before us is in fact the same as involved in OA 1351/92 before the Allahabad Bench. The learned counsel for the petitioner submitted that the respondents have filed the OA before the Allahabad Bench after he had filed the present OA before the

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Principal Bench on 3.6.1992 and, therefore, the case of the petitioner should be heard at the Principal Bench. A perusal of the ordersheet on the file goes to show that this OA has not been admitted. In fact, the issue of the territorial jurisdiction of the Principal Bench was raised in our order dated 16.4.1993. It was on 11.5.1993 that the learned counsel stated that he would like to file an application before the Hon'ble Chairman for retention of the case at the Principal Bench. This prayer has been granted by the Hon'ble Chairman vide order dated 28.5.1993. The argument that the OA was filed here earlier than the OA before the Allahabad Bench in our view is not a valid argument, as the permission to retain the case at the Principal Bench to entertain/retain at the Principal Bench was granted by the Hon'ble Chairman only on 28.5.1993. As the issues involved in this case are already before the Allahabad Bench, we are of the opinion that this OA is not maintainable under the principle of res judicata. The OA is accordingly dismissed. The petitioner, however, shall have the liberty to agitate the matter in accordance with law, if so advised, before the appropriate forum.

J. P. Sharma
(J. P. Sharma)
Member (J)

I. K. Rasgotra
(I. K. Rasgotra)
Member (A)

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