

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL NEW DELHI

(10)

OA No. 1830/92

DATE OF DECISION 17-9-93

MP-1748/93

Sh. V. B. Shukla

Petitioner

Sh. S. S. Tiwari

Advocate for the Petitioner(s)

Versus

U.O.I. & Ors through Director of Estates

Respondent

Sh. P. P. Khurana

Advocate for the Respondent(s)

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

The Hon'ble Mr. B. S. Hegde, Member(J)

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?

JUDGEMENT(ORAL)

(delivered by Sh. I. K. Rasgotra, Member(A))

We have heard Sh. P. P. Khurana, counsel for the petitioner in the MP 1748/93 (Respondent in the main O.A.) and Sh. S. S. Tiwari, counsel for the respondents in the MP (petitioner in the main O.A.)

The prayer in the M.P. is that the OA No. 1830/92 be dismissed directing the applicant to vacate and hand over the vacant possession of the quarter No. 559, Type-II, N.H. IV, Faridabad to the Central P.W.D. Enquiry Office, Faridabad;

[Signature]

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in addition to payment of $1\frac{1}{2}$ times of flat rate of licence fee upto 3-9-92 and after that damages @ Rs 1526 P.M. w.e.f. 4.9.92 to 31.3.92 and from 1.4.93 to the date of vacation of quarter.

We have, however, find that certain other developments have taken place which affect the complexion of the case materially. It is, therefore, be necessary to go back to the Original Application and the reliefs prayed by the petitioner. Therein before disposing of the M.P. The case of the petitioner is that he was removed from service w.e.f. 23.9.91. The said order of removal was appealed against by the applicant vide appeal on 7-10-91. The Appellate Authority set aside the order of removal from service and ordered that the applicant be reinstated in service and the intervening period between the date of removal and the date of reinstatement be treated as dies non. Simultaneously the petitioner was directed to report at Port Blair.

The applicant filed an O.A. in the Principal Bench praying that consequent to re-instatement in his service, he was entitled to retain the Govt. accommodation on the ground that if the appeal is allowed, he would be entitled to retain the Government accommodation. The

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Tribunal in the said O.A. vide order dated 27.7.92 directed the respondents not to dispossess the applicant from quarter No.559 Type-II N.H.IV Faridabad. The respondents, nevertheless of said order, pursued the eviction proceeding under the P.P.Act and ultimately issued the impugned eviction order dated 21.4.92. The applicant has since joined at Port Blair and his family has continued to reside at Faridabad. He has prayed for the following reliefs in the O.A.

- 1- set aside and quash the eviction order passed by the Respondent No.II dated 21.4.92.
- 2.direct the respondents to allow the applicant family to retain the Govt. accommodation as per prevalent Law/Rules.
3. direct the respondents to charge normal market rent/licence fee from Oct.,onwards.

Shri P.P.Khurana,counsel for the petitioner in the M.P.(Respondent in the main O.A.) brought to our notice a letter No.7(984)86/CB dated 18.2.93. According to the said letter the respondents regularised the quarter in the name of the petitioner w.e.f. 22.10.91 on payment of licence fee to till date of his re-joining in his Govt.service wef 22.6.92. A copy of this order has also been endorsed to the petitioner at his current official address at Port Blair. The learned counsel for the petitioner

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(Respondent in the M.P.) however, submits that the petitioner has not received a copy of said order Sh.P.P.Khurana, learned counsel for the petitioner in the M.P.(Respondent in the main O.A) has undertaken to furnish a copy of this order to the learned counsel for the respondents in the M.P.(Petitioner in the main OA) today.

In view of the above order of the respondents the relief prayed by the petitioner in the O.A. has already been provided to the petitioner in as much as the respondents have superseded the letter dated 8.10.91(A-c) according to which the allotment of said quarter in the name of petitioner was cancelled.

Learned counsel for the respondent in the M.P. Shri Tiwari however, contends that the respondents have refused to allow the family of the petitioner to continue in the said quarter as they have rejected his application for allowing him to retain quarter in accordance with Rules applicable to the Government Servants posted in Andaman Nicobar Islands. In this connection, he referred to us to respondent Administration's letter dated 16.6.92. We

28

however, observe that the permission to retain the said quarter was denied to the petitioner in the O.A. on the ground that the allotment of the said quarter had been cancelled vide letter dated 8.10.91. The order dated 8.10.91 cancelling the allotment of the said quarter, however, no longer subsists as the same has been superseded. If the petitioner wished to retain the quarter by virtue of his posting in the Islands, it is open to him to make an application in accordance with Rules and it will be incumbent upon the respondents in the O.A. to dispose of the said application in accordance with Rules.

In view of the above facts and circumstances of the case, in our opinion both OA and MP have become infructuous. It was brought to our notice by the respondents in the M.P. (Petitioner in the main OA) that petitioner is continuing in the said accommodation by virtue of interim order granted by the Tribunal on 27.7.92 and extended till further orders vide order dated 11.8.92. In these circumstances, we have no doubt that the respondents (main O.A.) shall charge license fee from the petitioner in accordance with rules for the use of the

22

petitioner in accordance with Rules for the
from the date rejoined at Port Blair.

OA and MP are disposed as above. No costs.

B. S. Hegde
(B.S. HEGDE)
MEMBER(J)

I. K. Rasgotra
(I.K. RASGOTRA)
MEMBER(A)

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