

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

11

O.A.1952/92

Date of decision:13.4.93

Mrs.Jaswant Kaur

.. Applicant.

versus

Union of India &

others

.. Respondents.

Sh.R.L.Sethi

.. Counsel for the applicant.

Sh.R.L.Dhawan

.. Counsel for the respondents.

CORAM:

The Hon'ble Sh.N.V.Krishnan, Vice Chairman(A).

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

1. Whether Reporters of the local papers may be allowed to see the judgement?
2. To be referred to the Reporter or not? >

J U D G E M E N T (ORAL)

(Hon'ble Sh.N.V.Krishnan, Vice Chairman(A))

This application has been filed by Smt.Jaswant Kaur, widow of Amarjit Singh, who was a government employee, as well as three other applicants who are their minor children. The application is directed against:

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: 2 :

i) the letter dated 21.7.92 (Annexure A-3) to the first applicant informing her with reference to para 5 of the judgement dated 22.5.92 in O.A. 134/88 that the amount payable by her, according to rules, as arrears of rent/damages for railway quarter No.68/A.6. at Moti Bagh is Rs.58195 for the period from 11.5.87 to 31.8.92 and that Rs.1826/- p.m. has to be deposited from 1.9.92 till vacation/regularisation of the quarter and (ii) the letter dated 21.7.92 (Annexure A-4), by which the second respondent has informed the Inspector of Works, Northern Railway, Tis Hazari and the Electric Foreman(Power), Northern Railway, Delhi that the electric and water connections of the quarter occupied by the applicants be restored with immediate effect but that the first applicant should deposit an amount of Rs.58,195/- as mentioned in the first letter of even number dated 27.1.92 within ten days, failing which the supplies will be disconnected again.

2. It is stated that the first applicant's husband Amarjeet Singh was employed as a Clerk in the Railways and while so a departmental enquiry was initiated against him which culminated in an order dated 14.5.87 removing him from service. The appeal preferred by him was dismissed.

3. Against these proceedings O.A.134/88 was filed. During the pendency of that O.A., the applicant, Amarjit Singh, died and his legal representatives namely, the present applicants were substituted.

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4. On 18.5.92 an order was passed in that O.A. (Annexure A-2) clarifying an earlier interim order, directing that rent of Rs.27.50 p.m. be paid from 11.5.87 to 30.6.87 and at Rs. 55/- p.m. from 1.7.87 to 30.4.92 provisionally without prejudice to the respondents contention.

5. By the final judgement dated 22.5.92 (Annexure A-1) the Tribunal quashed the appellate order and directed the appellate authority to pass an appropriate order on the appeal, after affording an opportunity of being heard to the legal representatives of the deceased government servant. That order also contained the following directions regarding the quarter and the rent payable.

"Before parting our attention was drawn to the ordersheet dated 18.5.92 in which the normal rent was directed to be deposited by the applicant and the interim order was modified accordingly with the observation that it shall be without perjudice to the case of the respondents. The O.A. has been finally disposed of today. The original applicant has died. If the L.Rs. of the deceased applicant want to reside in this quarter they shall have to reside only according to the rules prevailing. The respondents may take steps according to the rules"

6. It is in pursuance of this direction that the annexure A-3 notice dated 21.7.92 was issued to the first applicant demanding from her rent/damages of Rs.58,195/- at the rates mentioned therein for various periods. This was followed by another letter of the same date regarding restoration of electric and water connection and a warning about their disconnection if the arrears of Rs.58,195/- were not paid before 1.8.92 .

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7. The applicants are aggrieved by these ordersw, because it is stated that this is against the interim order dated 18.5.92 (Annexure A-2) referred to above and also that such an order cannot be passed till the appeal is disposed of.

8. We have heard the learned counsel for the applicant.

9. We are unable to agree. The interim order dated 18.5.92 lapsed with the final order passed on 22.5.92 (Annexure A-1). This is clear from that order itself because it states that the rent permitted to be paid and required to be accepted by the respondents was only provisional, without prejudice to the case of the respondents. The direction in the final order makes it clear that if the L.Rs. want to reside in the house, they shall have to reside only according to the rules prevailing and the respondents were allowed to take steps according to the rules. This order superceded the interim order. The annexure A-3 and A-4 letters are issued in pursuance of the direction.

10. The learned counsel also submits that the Annexure 3 demand could not have been made until the appeal against the disciplinary authority's order was finally disposed of. We do not find any such direction in the Annexure A-1 judgement. The applicants could have got this clarified by filing a review application or a miscellaneous petition. That has not been done. Admittedly, that judgement has become final.

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(15)

11. The order of removal was not set aside by that judgement though the appeal was remanded. With the removal of Amarjit Singh from service certain consequences ensued regarding the occupation of the quarters. It became unauthorised according to rules and the liability to pay penal rent arose. The Annexure A-1 judgement of the Tribunal did not stay the operation of the disciplinary authority's order of removal, even for the limited purpose of allowing Amarjit Singh to continue to occupy the quarter as an authorized occupant, with all its implications, till the appeal was disposed of. In the ~~present~~ ~~case~~, the applicants cannot agitate these matter directly or indirectly, in the O.A., as such matters could have been raised and got decided in O.A.134/88 and therefore, those claims are barred by constructive ~~judicata~~.

12. No other ground has been raised to assail the Annexure A-3 and A-4 letters.

13. In the circumstances, we find no merit in this application. It is, therefore, dismissed. We also make it clear that this order shall not stand in the way of the applicants from pursuing any legal remedy available to expedite the disposal of the pending appeal.

(B.S.Hegde)

Member(J)

(N.V.Krishnan)

Vice Chairman(A)