

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL NEW DELHI

O.A. No. 2987/92
T.A. No.

199

DATE OF DECISION 3.9.1993

Parme shwar Dayal

Petitioner

Sh.S.C.Saxena

Advocate for the Petitioner(s)

Versus

U.O.I. & Ors. through Secretary,
Ministry of Urban Development

Respondent

Advocate for the Respondent(s)

NONE

CORAM

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

The Hon'ble Mr.

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

(delivered by Sh.B.S. Hegde, M(J))

Heard the arguments of Sh.S.C.Saxena, counsel
for the applicant. None for the respondents.

The applicant has filed this application
under Section 19 of the Administrative Tribunal Act, 1985
praying for quashing the impugned orders dated 15.7.92
and 17.8.92 (A-VIII) respectively regarding deduction of
rent from the applicant. He also sought for interim relief
to restrain the respondents from charging the damage rent
at the rate of Rs 550/-p.m. from 1.11.90 to 30.4.91 and
also damage rent @ Rs 1099/-p.m. from 1.5.91 to 31.7.92.

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23 The applicant is a Binding Assistant in the Government of India Press, Mayapuri and was allotted a quarter Type-I/98, Press Colony on 26.2.1988. The allotment of the said quarter was cancelled vide order dated 23.2.1990. Thereafter the applicant was served with a notice on 15.2.1990 from the respondents to show cause against the cancellation of the official allotment of the said quarter on the ground of subletting, though he furnished a detailed reply, the 4th Respondent cancelled the allotment vide order dated 23.2.1990.

33 Learned counsel for the applicant submits that in this case respondents have adopted two different sets of rules one under Public Premises (Eviction of unauthorised occupants) Act, 1971. Secondly, allotment of Govt. Residences to officers/employees employed in Government of India Press Rules, 1972. The respondents vide their office Memo. dated 15.7.92 and subsequent memo dated 17.8.92 given eviction notice subsequent to the Judgement delivered by this Hon'ble Tribunal in OA No. 2537/90 on 24.4.92 calculating damage rent w.e.f. 1.12.90 to 31.7.92 a sum of Rs 18,315.00. Learned counsel for the applicant on receipt of the notice dated 15.2.90 in his reply vide letter dated 20.2.90 has

18/2/90

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now stated that the respondents have adopted two different sets of Rules in order to direct the applicant to evict the premises before the Hon'ble Tribunal. The applicant in his representation dated 20.2.90 has admitted in para 3 that he temporarily allowed in the front portion of the house to one student said to be relation of one of his friends for preparing for examinations without charging any rent. Accordingly the earlier O.A. filed by him on the same issue was dismissed as devoid of any merit. Thereafter, he filed a Review Petition which is also rejected.

4. The Respondents in their reply submitted that the present application is barred under the doctrine of res-judicata and, therefore, he cannot agitate the same issue again with the same cause of action. As the applicant had filed O.A. No.2537/90 and the same was dismissed by this Tribunal on 24.4.92 and, therefore, this application is liable to be dismissed which is devoid of any merit. They further contended that despite notice to evict the premises, applicant did not vacate the premises, therefore, service under Section 4 and Section 5 of the Public Premises Act, 1971 was issued before issuing notice vide dated 23.2.90 under Public Premises Act and sufficient opportunity was given to the applicant to substantiate his claim before

same

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the Estate Officer and applicant had filed reply which was duly considered and, thereafter, Estate Officer passed suitable orders in accordance with Law.

5. During the course of hearing, learned counsel for the applicant submitted that considering the plight of the applicant, the Tribunal passed an interim order not to recover damage rent amount calculated by the respondents from the applicant till further orders. Accordingly, though respondents have recovered a sum of Rs 1099/- from his salary for the period Dec., 92 and Jan., 1993 the same has been refunded to the applicant as per Tribunal's direction.

6. The respondents have made averments in their reply to the O.A. As against the enhanced rent charged by the Estate Officer, the applicant challenged the same. The Tribunal vide OA 2537/90 dated 24-4-92, taking all the facts into account held, that the application is devoid of merit as he himself admitted that one Beni Ram was lodged in the said premises and dismissed the case, and the Interim order granted earlier in this respect was vacated.

BKMP

7. Learned counsel for the applicant also drew

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my attention that though he has intimated that he would vacate the quarter in the month of July, since he has been asked to obtain 'no objection certificate' from the authorities before handing over the premises, regarding the payment of rent electricity bills. In the instant case, as regards electricity bills are concerned, since the meter was in the name of the applicant's predecessor, it took considerable time to get it changed in his name and hence the delay. Therefore, there is delay in obtaining 'no objection certificate'. and thereby there was delay in the vacation of the premises.

8. The applicant states that he has paid normal rent upto 7.12.92 and vacated the premises and produced acknowledgement receipt for payment of rent till 7-12.92. Since the subject matter is directly covered by the decision of this Tribunal in OA No. 2537/90 it is not possible for me to quash and set aside the alleged impugned order dated 17.8.92, however, in the circumstances the applicant is situated, being a class-IV employee, in the interest of justice it would be appropriate on the part of the Respondent to issue a fresh show cause,

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giving recourse to deduction already made or the payment made ^{by} the applicant, the balance may be recovered from his salary on instalment basis, a sum of Rs 800/- till the arrears are cleared. The O.A. is disposed of accordingly. No costs.

B.S. Hegde 1/9/93
(B.S. HEGDE)
MEMBER(J)