

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI
* * *

(7)

O.A. NO.1027/92

DATE OF DECISION : 13.4.92

Shri Khalil Mian

...Applicant

Vs.

Union of India & Anr.

...Respondents

CORAM

Hon'ble Shri J.P. Sharma, Member (J)

For the Applicant

...Shri B.Krishnam

For the Respondents

...None

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

JUDGEMENT

(DELIVERED BY HON'BLE SHRI J.P. SHARMA, MEMBER (J))

The applicant, who is working as a Peon (Civilian) in the Army Headquarters, Ministry of Defence, Sena Bhawan, New Delhi, was allotted a Quarter No.433, Sector-V, R.K.Puram, New Delhi and the allotment of the said quarter was cancelled by the impugned order dt.16.3.1989 and the eviction order from the said quarter was passed on 15.6.1989 by Estate Officer, Directorate of Estates. The applicant challenged both these orders by this application filed on 9.4.1992 and also assailed the levy of damages in respect of the premises assessed by respondent No.1, i.e., Directorate of Estate.

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2. I have heard the applicant on the point of limitation. The applicant has stated that the application is within limitation. It is stated that he preferred an appeal against the impugned order dt.15.6.1989 before the Additional District Judge, which was decided on 23.3.1992.

3. It is pertinent to note here that the applicant has not challenged the judgement of the Additional District Judge dt.23.3.1992 (Annexure A7) by which the appeal was dismissed on merits as well as on the basis of the authority- AIR 1977 p-189, referred to in the said judgement.

4. Under Section 21 of the Administrative Tribunals Act, 1985, the applicant should have come within one year from the date of cancellation of the allotment order, i.e., the impugned order dt.16.3.1989 and since he preferred a representation against this order, then after the decision of the representation, which in this case is dt.15.6.1989. Thus the applicant should have come by 15.6.1990. Thus the filing of this application in April, 1992 will not make the matter within limitation under Section 21(1)(a).

5. The learned counsel has referred to the cases of Gulab Jan Vs. Estate Officer, II 1990 CSJ p-152 CAT and

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I 1990 CSJ p-345 CAT. Both these cases were filed within limitation as prescribed under Section 21 of the Administrative Tribunals Act, 1985. The learned counsel has also referred to the judgement of the Division Bench in the case of OA 159/91 decided on 23.8.1991 (Sh.Ved Kumar Vs. UOI). The facts of this case are totally different in as much as the applicant of that case withdrew the appeal filed before the District Judge on 11.1.1991. The Bench in that case held that when the appeal was allowed to be withdrawn by the District Judge, it was with the permission to seek ^{from} ~~for~~ the High Court. The mere fact that the District Judge in the order did not state that the withdrawal is with a view to seek redress in the High Court, should not be construed against the applicant. Thus in the present case, the applicant has not challenged the order of the District Judge which has finally disposed of the matter by a judgement on merit dt.23.3.1992. Thus the order of the District Judge has become final for all purposes. In view of the above facts, in this application, the impugned orders of March, 1989 and June, 1989 passed by respondent Nos.1 and 2 respectively have been assailed after the period prescribed by Section 21 of the Administrative Tribunals Act, 1985, i.e., much after one year. The application is, therefore, barred by limitation and is dismissed at the admission stage itself.

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13.4.92
(J.P. SHARMA)
MEMBER (J)