

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI
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(b)

C.A. NO. 1206/92

DATE OF DECISION : 06.08.92

Shri Munna Singh

...Applicant

Vs.

Union of India & Anr.

...Respondents

CORAM

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

For the Applicant

...Shri Umesh Misra

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 (ORAL)

The applicant is working as Highly skilled Fitter in Northern Railway with respondent No.2 and has been allotted a Railway Quarter No.89/8 Railway Colony, Kishan Ganj, Delhi. The applicant has been served with a communication dt. 23.3.1992, though mentioned in the application as 10.4.1992 by which the applicant has been found to have sublet the Government premises to one Shri Naginder Bhawan working as ESL Cleaner and Shri Mantoo Ram, s/o Shri Chottey Lal an outsider. This was detected on a check conducted by IOW on 28.8.1991. On a second check which was conducted on 24.2.1992, subletting was ~~not~~ ^{only} found for a period from 28.8.1991 to 24.2.1992. The possession of the applicant has been treated

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as unauthorised by the competent authority and the recoveries at the damage rate were ordered from the applicant. The applicant made a representation on 29.4.1992 and since the matter appeared to be of emergency, without waiting for the requisite period of six months, he filed the present application on 1.5.1992 and an interim direction was issued that no deduction be made from the salary of the applicant and that interim direction is continuing till today.

2. The applicant in this application has claimed the relief that the respondents be directed not to recover any damage unless the same is ascertained after giving a show cause notice and opportunity to file objection and after holding enquiry under Public Premises (Eviction of Unauthorised Occupants) Act, 1971.

3. The respondents contested the application and filed the reply taking a preliminary objection that the application is premature, filed without exhausting the period of six months from the date of the representation as the same was under consideration of the respondents. On merits, it is also stated that the applicant has sublet the accommodation and so according to the Extant Rules, he is liable to pay the damage rent for unauthorised occupation till the time it was detected by the second check that the applicant has not been continuing subletting.

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4. I have heard the learned counsel of the parties at length. It is not necessary to go into the merit of the various contentions raised by the parties. It is almost not disputed by the learned counsel for the respondents that the order dt. 23.3.1992 was passed without giving a show cause notice to the applicant. The applicant in the application has averred that he has not been given any show cause notice and the learned counsel for the applicant also argued that without hearing the applicant and giving him an opportunity of adequate representation on the ~~accusation~~ ^l ~~acquisition~~ of subletting, it shall be against the principles of natural justice to tax the applicant with abnormal exorbitant damages at the rate of Rs.30 per square metre (as per Extant Rules). Thus the application is disposed of not on merit, but on the ground that the applicant has not been given any opportunity of representing himself and so the respondents are directed to issue a show cause notice to the applicant and to recover any damages under the relevant law in the competent forum after giving a show cause notice to the applicant without which no amount should be recovered from the salary of the applicant. In the circumstances, the parties shall bear their own costs.

J. P. Sharma
(J. P. SHARMA)
MEMBER (J)

06.08.1992