

21.4.2003

Hon'ble Mr. Justice RRK Trivedi, VC.

Heard Sri R. Verma, learned counsel for the applicant and Sri P.K. Pandey, learned counsel for the respondents.

It appears that the applicant was serving as Assistant in Employees State Insurance Corporation. He was compulsorily retired from service vide order dated 16.1.2002 which was challenged in OA no. 1321/02. A Division Bench of this Tribunal, after hearing learned counsel for the parties passed the following interim order :-

"Sri Vikas Budhwar, B.H. of Sri S. Agarwal, Counsel for the applicant and Sri P.K. Pandey, Counsel for respondents.

Admit. The respondents shall have six weeks to file counter reply. Counsel for the applicant shall have two weeks thereafter to file rejoinder.

There is a prayer for interim order seeking restrain on the respondents from forcibly vacating the applicant from the quarter during the pendency of the present case. Counsel for the applicant submits that the quarter is still under the possession of the applicant and applicant's family is staying therein. It will take some time for the applicant to search out an alternate accommodation and shift the family to that accommodation. He gives an undertaking that the applicant needs three month's time for the purpose and shall vacate the quarter on completion of three months from today.

In view of the submission, we provide that the applicant shall be granted three month's time to vacate the quarter which is in his possession.

List for hearing on 23.1.2003."

As clear from the interim order ~~that~~^{it} the applicant was allowed 3 months time to vacate the quarter on his giving undertaking for the same. The three months time admittedly expired on 14.2.2003. The respondents have intimated the applicant to vacate the quarter in view of his undertaking given and also asked him to pay a total amount of Rs. 19085/- as rent, as the applicant ~~is~~ continues ~~his~~^{his} possession under the ~~interim~~ order passed by this Tribunal. In ~~our~~^{my} opinion the applicant should challenge the order in the same O.A. and not by a fresh OA.

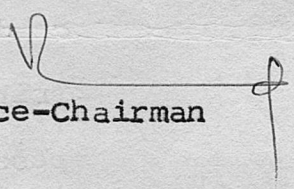
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For this reason without expressing ^{any opinion on} ~~the case~~ on merit and without prejudice ^{to it} the right of the applicant, ^{to it} ~~the applicant may~~ challenge the order in the OA which is pending, ^{if} ~~This~~ OA is rejected accordingly as not maintainable.

There shall be no order as to costs.


Vice-Chairman

/pc/