

Passionate Quoted

(11)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

O.A. No.
TAX NO.

173 OF 1990

DATE OF DECISION 17th March, 1992.

Shri Jaysinh Jilibhai and Ors. Petitioner

Shri P.P.Bhatt Advocate for the Petitioner(s)

Versus

Union of India and Ors. Respondent

Shri B.R.Kyada. Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. R.C.Bhatt : Judicial Member

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?

1. Shri Jaysinh Jilibhai,
residing at : Railway Colony,
Quarter No. M-131-B, Hapa,
Jamnagar.
2. Shri Mehmoodkhan N.
residing at : Railway Colony,
Quarter No. M - 96-C.1, Hapa,
Jamnagar.
3. Shri Liladhar Balubhai,
residing at : Railway Colony,
Quarter No. M - 100 - D-1, Hapa,
Jamnagar. *deleted*
4. Shri Ramvishal B.Khalasi,
residing at : Railway Colony,
Quarter No. 97-A-1, Hapa,
Jamnagar.
5. Shri Jaysinh C.Baria,
residing at : Railway Colony,
Quarter No.-M-97-B, 1, Hapa,
Jamnagar.
6. Raghunathsinh S. Rajput,
residing at : Railway Colony,
Quarter No.M-98-D-1, Hapa,
Jamnagar.
7. Navinchandra R.Gopiyani,
residing at : Railway Colony,
Quarter No. M-68-B-II, Hapa,
Jamnagar.
8. G.G.Deshmukh,
residing at : Railway Colony,
Quarter N . M-63-B-II, Hapa,
Jamnagar. *deleted*
9. H.R.Joshi,
residing at : Railway Colony,
Quarter No. M-68-A-II, Hapa,
Jamnagar.

...Applicants.

(Advocate : Shri P.P.Bhatt)

Versus

1. Union of India,
Notice to be served through the
General Manager,
Western Railway,
Churchgate, Bombay - 400 004.
2. The Divisional Manager,
Rajkot Division, Kothi Compound,
Western Railway Colony,
Rajkot.
3. The Chief Signal Inspector,
Western Railway, Hapa,
Jamnagar.

...Respondents.

(Advocate : Shri B.R.Kyada)

O R A L J U D G M E N T
O.A. NO. 173 OF 1990

Dated : 17th March,
1992.

Per : Hon'ble Mr.R.C.Bhatt : Judicial Member

This application under Section-19, of the Administrative Tribunals Act, 1985, is filed by nine applicants seeking the relief that the impugned orders Annexure-A/2, A/3, passed by the respondents by which they ask the applicants to vacate and hand over the quarters be quashed and their action to deduct the penal rent from the salary also be quashed. During the pendency of this application the names of applicant no. 2, 3, and 8, have been deleted. Therefore, now this application is prosecuted only by the applicants, 1, and 4 to 7, and 8.

2. The grievance of the applicants is that they are permanently employed by the respondents and are staying with their family in the said quarters since July, 1988 and have been paying rent regularly, and the respondents had to deduct the normal rent from their salary. The applicants have produced at Annexure-A/1, their names, dates, of joining service and types of quarters allotted and in Annexure-A/1, they have mentioned that what should be the normal rent that can be deducted as rent from their salary. The applicants have alleged that this type of rent is deducted from their salary. The cause of the applicants as pleaded in the application is that by impugned order at Annexure-A/2, the respondents have now come with the cause ~~with~~ ^{in that} the possession of the quarters by the respective ~~authorities~~ ^{applicants} is unauthorised.

The learned advocate for the applicants submitted that assuming that the applicants are in unauthorised occupation of the quarters allotted to the applicants, still there is a procedure prescribed in the Public Premises (Eviction of Unauthorised - Occupants) Act, 1972, for recovering the possession. But the respondents without following that procedure want to dispossess applicants, which action on their part is illegal, and arbitrary. It is also the case of the applicants that the respondents have been deducting the penal rent from their salary which is also an illegal act. They also allege that the respondents claim damage charges also.

3. The respondents have filed reply contending that the applicants who are Railway employees have taken the possession of the quarters unauthorisedly and the competent authority therefore, had passed the order for the vacating of the quarters and the notices were served to the applicants, but they are not vacating the quarters nor do they want to pay the penal rent for unauthorised occupation. The respondents have contended in the reply that no allotment of the quarters has been made in the name of any of the applicants and their occupation is totally unauthorised.

4. The learned advocate for the applicants submitted that the Signal Inspector Grade-I, Western Railway, Hapa, who has passed the impugned order is not the competent authority to pass the orders for vacating the quarters.

5. After some argumentations on both the sides, it appears that according to the applicants they are in legal possession of the quarters, While according to the respondents the possession of the applicants is unauthorised because no allotment committee ~~has~~ allotted the quarters to them and the criteria of eligibility is essential service on Railways. The contention of the learned advocate for the respondents is that none of the applicants have applied for the quarters nor their case was considered by the allotment committee and when the respondents asked the applicant to vacate the quarters they did not pay any heed to it. Learned advocate for the respondents submitted that the respondents could not take proceeding in the Public Premises Act, as the ~~re~~ ^{ed} applicants obtain the orders for maintenance of status-quo from this Tribunal. Learned advocate for the respondents submitted that the applicants can make representations to the competent authority about the two points, namely, about ~~the~~ retention of their quarters and about their payment of normal rent and not penal rent, but till the decision is taken by the competent authority the applicants shall have to continue to the penal rent if they want to retain the possession. The learned advocate for the applicants submitted that the competent authority which ~~re~~ may be the allotment committee or other committee ~~who~~ ^{re} should decide the representations of the applicants at the earliest and they should be given liberty to approach this Tribunal if they feel aggrieved by the decision of the competent authority. Hence the following order :

ORDER

"The applicant No.1, 4, to 8, and 9, to make the representations to the competent authority of the Railway about their claim of possession of the Railway quarters in which they reside and about the quantum of the rent which should be charged from them and any other points they want to incorporate, within two weeks from the date of the receipt of this order. The respondents on receipt of these representations from the applicants to decide representations within three months. The respondents to allow the applicants to continue their possession of the quarters till their decision by deducting the penal rent which they have been deducting. The competent authority to dispose of the representations of the applicants in accordance with the Rules and also sympathetically after considering the representations made by the applicants. If the applicants feel aggrieved by the ultimate decision of the competent authority of the respondents they would be at liberty to approach the Tribunal. The applicants to consider the question about their joint claims in future as and when they approach Tribunal. No order as to costs. The application is disposed of."



(R.C.Bhatt)
Member (J)