

CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

O.A. NO. 359 OF 1991

~~TA NO~~

DATE OF DECISION 1-12-1995.

V.V. Murlidharan Nair, Petitioner

Mr. R.K. Mishra, Advocate for the Petitioner (S)

Versus

Union of India & Ors. Respondent s

Mr. Akil Kureshi, Advocate for the Respondent (s)

CORAM

The Hon'ble Mr. V. Radhakrishnan, Admn. Member.

The Hon'ble Mr.

JUDGMENT

1. Whether Reporters of Local papers may be allowed to see the Judgment ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the Judgment ?
4. Whether it needs to be circulated to other Benches of the Tribunal ?

V.V. Murlidharan Nair
Aged: Adult,
Occupation: Service,
Address: Commander Works
Engineer (project) Bhuj
District: Kutch.

.... Applicant.

(Advocate: Mr. R.K.Mishra)

Versus.

1. Union of India
(Notice to be served upon
the Secretary, Ministry of
Defence, Government of
India, New Delhi.)
2. Station Commandant (Army)
Station Head Quarters,
Ahmedabad.
3. Garrison Engineer (MES)
Near Camp Hanuman,
Ahmedabad.
4. The Commander Works Engineer,
(Project), Bhuj, Dist:Kutch.
5. Area Accounts Office,
(Controller, Defence Accounts)
Southern Command, Jaipur.

.... Respondents

(Advocate: Mr. Akil Kureshi)

ORAL JUDGMENT

O.A.No. 359 OF 1991

Date: 1-12-1995.

per: Hon'ble Mr.V.Radhakrishnan, Admn.Member.

Heard Mr. R.K.Mishra, the learned advocate
for the applicant and Mr. Akil Kureshi, the learned
advocate for the respondents.

2. The applicant was serving with the
respondent No.3 and was in occupation of Government
accommodation. He was transferred to Bhuj in May 1988.

..... 3/-

He had submitted an application for retention of accommodation for the domestic reasons. He did not receive any reply until May 1990. The respondent No.4 was informed that the applicant was not entitled to retain the accommodation and disciplinary action will be taken against him if he did not vacate the said accommodation. Thereafter the respondents started deducting Rs. 1264/- per month after fixing the market rent/damage rent at Rs. 710/- per month. The applicant made several representations against the recovery of the damage/market rent. He now challenges the impugned action of the respondents authorities for deducting of Rs. 1264/- per month for his occupying Government accommodation at Ahmedabad beyond the period of May 1988.

3. The main contention of Mr. Mishra for the applicant is that the respondents have not taken proper action under public premises (Eviction of Unauthorised Occupants) Act, 1971. According to him, the respondents should have given a show-cause notice as prescribed under the said Act. According to sub Rule 3 of Section 7 "No order under sub-section (1) or sub-section (2) shall be made against any person until after the issue of a notice in writing to the person calling upon him to show cause within such time as may be specified in the notice, why such order should not be made and until his objections, if any, and any evidence he may produce in support of the same, have been considered by the estate officer". It is not disputed that no such



notice was given to the applicant before the damage/market rent recovery was started. Mr. Akil Kureshi for the respondents while agreeing with the above pointed out that as a Government servant the applicant should be aware of rules according to which once he has been transferred out of the station he cannot retain accommodation beyond the permitted limit.

4. After going through the records it is found that not only the action has not been taken as contemplated in public premises (Eviction of Unauthorised Occupants) Act, 1971, but no notice has even been otherwise be given to the applicant informing him of the heavy financial ^{penalty} / in case he refused ^{to} ~~vacate~~ accommodation. It is well settled that any action taken in respect of Government servant which ^{may} put him in financial loss should be done only after giving him an opportunity of hearing (AIR 1974 SC 1389). In this case not only the provisions of Act were not followed, but the applicant was also not given any hearing in the matter. On the contrary the deduction was started at the rate of Rs. 1264/- which is several times the normal rent payable by the applicant. In any event such a big recovery certainly put a low-paid official in acute financial difficulty.

5. In the facts and circumstances of the case, it has to be held that the respondents had not taken action as per the provisions of the public premises (Eviction of Unauthorised Occupants) Act, 1971, but also their action was against the

principles of natural justice. Hence the action in deducting the damage/market rent of Rs. 1264/- per month on the basis of the damage rent of Rs. 710/- is quashed and set aside. Any amount recovered on that basis shall be refunded to the applicant after deducting the rent for the extended period of retention of the quarter after the date of his transfer at the rate of double the assessed rent of the quarter within a period of three months from the date of the receipt of a copy of this judgment. No order as to costs.



(V. Radhakrishnan)
Member (A)

vtc.