

Order dated: 29.06.2009

Coram: Hon'ble Mr. Justice K. Thankappan, M(J)
Hon'ble Mr. C.R.Mohapatra, M(A)

The applicant has filed this O.A. for allowing him to retain the Govt. quarters, namely, Qr. No. 32143/2 of Type-II of the Ordinance Factory, Badmal. The applicant had faced a disciplinary enquiry under Rule 14 of the Central Civil Services (Classification, Control and Appeal) Rules, 1965 (CCS (CCA) Rules in short) for his alleged misconduct under the provisions of Rule 3(1)(i)(ii)(iii) of CCS(Conduct) Rules. After enquiry, the applicant was found guilty of the misconduct and he was removed from service as per the order dated 29.11.2008. The appeal filed by the applicant against the said order was dismissed. Thereafter, the applicant filed a revision application before the Hon'ble President of India, which is pending. The applicant submits that since he has already filed a revision petition before the Hon'ble President of India, he may be permitted to retain the quarters on usual rent.

2. After hearing Mr. D.P.Dhalsamant, Ld. Counsel for the applicant and Mr. S.Mishra, Ld. A.S.C. for the Govt. of India on behalf of Mr. U.B.Mohapatra, Ld. Sr. Standing Counsel, this Tribunal by an order dated 04.06.2009 allowed the applicant to continue to occupy the quarters till the counter is filed by the Respondents.

3. When the matter came up for further consideration today, we heard Ld. Counsel appearing for the applicant as well as Ld. Counsel for the Respondents Mr. U.B.Mohapatra, represented by his proxy counsel Mr. S.Mishra.

4. Ld. Counsel for the applicant submits that since the revision petition is pending before the Hon'ble President of India, it is only proper for this Tribunal to allow the applicant to continue



in the quarters. To substantiate his position, the applicant relies on an order dated 29.07.2004 of the Central Administrative Tribunal of Bombay Bench in Gaur Chandra Dutta vs Union of India and Ors. reported in 9/2005 Swamysnews page 82. It is the further case of the applicant that his revision will be considered by the President of India and decision may be taken in his favour.

5. The Ld. Counsel appearing for the Respondents has brought to the notice of this Tribunal that the matter is now taken up by the Department seriously and they are taking steps to file a petition against the applicant under the provisions of the Public Premises (Eviction of Unauthorized Occupants) Act and also under the provisions of SR 149 and hence, it is only proper for this Tribunal to dismiss the O.A.

6. We have considered the matter in extenso. It is an admitted fact that the applicant being found guilty was awarded with the punishment of removal from service and the appeal filed against the punishment order was also dismissed confirming the order of the Disciplinary Authority. The judgment relied on by the Ld. Counsel for the applicant is only with regard to revision pending before the Reviewing Authority in the Railways. The facts of the instant case and the facts of the case reported in the Swamysnews are different and we are of the view that the same cannot be considered as a basis for issuing any order in favour of the applicant. At the same time, the vacation of the quarters by the Govt. employee is necessitated by the fact that there are other employees in queue to get quarters. In this context, we have to keep in view the judgment of the Supreme Court where the State Government was directed to take steps to evict the M.Ps. and

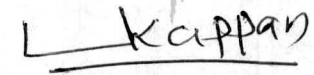


M.L.As. from the quarters and this is the question to be considered by this Tribunal seriously.

7. In the above circumstances, we are not inclined to give any favourable order to the applicant. However, considering the fact that the applicant is still occupying the quarters, we allow the applicant 15 days time from today to vacate the quarters. It is also made clear that the authorities are free to take further steps to evict the applicant after 15 days from today. Ordered accordingly.

O.A. is accordingly disposed of. No costs.


Member (Admn.)


Member (Judl.)

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