

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH

...

OA No.158 of 1996

Date of Order: 22.4.2002

Present: Hon'ble Mr. B.P. Singh, Member(A)
Hon'ble Mr. M.L. Chauhan, Member(J)

...

Balaran Biswas

VS

Govt. of India Press

For the Applicant: Mr. R.M. Roychoudhury, Counsel

For the Respondents: Ms. U. Sanyal, Counsel.

ORDER

In this OA, the applicant has prayed for cancellation of the order of damage rent against the applicant as the same has been imposed without any authority.

2. The fact of the case is that the applicant, who was ex-binder was allotted Flat No.377, Type II, Santragachi, P.O. G.I.F. Colony. On checking up by the Estate Manager, it was found that short recovery and damages with effect from 3/94 to 10/95 was to be recovered from the applicant. An order was passed by the Estate Manager with a copy to the Pay and Accounts Officer, for recovering the amount which was calculated to Rs.22,720.

3. The learned counsel appearing for the applicant has submitted that the procedure prescribed under Section 7 of the Public Premises (Eviction of Unauthorised Occupant) Act, 1971 was not followed before the issue of this order and

therefore the order passed by the Estate Manager (enclosed as Annexure A-6) is without jurisdiction and without any authority and therefore the applicant is not required to pay the amount so assessed, as the same has been ordered to be recovered by the authority, which is not competent to order for the same.

4. The learned counsel appearing for the respondents has submitted that the procedure prescribed under Rule 7 of the Public Premises (Eviction of Unauthorised Occupant) Act, 1971 is not required to be followed as the action was not taken under that Act rather action was taken by the competent authority under Sub-rule (6) of Rule 72 of CCS (Pension) Rules which clearly provides for recovery of the due amount through the concerned Accounts Officer from the dearness relief without the consent of the pensioner.

5. The learned counsel for the applicant has drawn out attention to communication No.23011/10/2001-CG dated 1.6.01 issued by the Ministry of Environment and Forests, enclosing a copy of the QM dated 27.2.2001 prescribing the procedure to be followed regarding cancellation of allotment and recovery of damage rent for the period of overstay beyond the permissible period. This Memo has been issued in 2001 whereas the order regarding recovery from the applicant was issued in 1995 i.e. 16.11.1995. The revised procedure as laid down in QM dated 27.2.01 cannot be applicable in the case of the applicant.

6. In view of the above submission it is found that the order of the respondents authorities was governed by the provisions of sub-rule (6) of Rule 72 of CCS (Pension) Rules, 1972 and they were within their right to recover the rent of the premises.

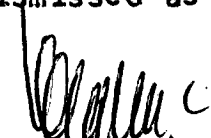
If the applicant was aggrieved with this order he should have made representation to the competent authority. But he has not made any representation as no such representation is enclosed with the OA. On a specific ^{query} ~~hearing~~, the learned counsel for the applicant was also not in a position to submit regarding the same. It appears no representation has been made.

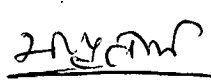
7. When this case was being considered, the learned counsel for the applicant submitted that he wants to withdraw this case and make representation to the competent authority drawing their attention to the ^{procedure} ~~the~~ prescribed in OM dated 27.2.01 for their consideration.

8. The learned counsel for the respondents has no objection.

9. In view of the above, we allow the applicant to withdraw this application with liberty to make representation in the matter to the competent authority, according to rules and procedure prescribed by the Government in the matter within a period of two weeks which the authorities will consider in accordance with the rules within a period of eight weeks from the date of receipt and pass a speaking and reasoned order and communicate the same within a period of 2 weeks thereafter.

^{is} ~~OA~~ dismissed as withdrawn.


(M.L. CHAUHAN)
Member (J)


(B.P. SINGH)
Member (A)