

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH,

O.A. No.331 OF 1996

Calcutta, this the 9th Day of June, 2004

HON'BLE SHRI R.K. UPADHYAYA, ADMINISTRATIVE MEMBER
HON'BLE SHRI J.K. KAUSHIK, JUDICIAL MEMBER

1. S.Subba Rao, S/o Late S.J. Somayajulu, aged about 62 1/2 years, retired Head Clerk, Dy.C.M.E. (L/W)'s Office, S.E.Rly., Kharagpur, and
2. S.J. Somayajulu, S/o Sri S. Subba Rao, aged about 35 1/2 years, Gangman, working under CPWI/KGP; both residing at Rly., Qr.No.L/F-9 Unit 4, MKT Kharagpur, PS: Kharagpur, Dist: Midnapur.

....Applicants.

(By Advocate : Shri B.C. Sinha)

Versus

1. General Manager, S.E. Railway, Garden Reach, Calcutta-43.
2. Divl. Rly. Manager, SERly, Kharagpur,
3. Sr. Divl. Engineer (L-III), S.E.Rly., Kharagpur,
4. Sr.Divl. Engineer, SERly., Kharagpur,
5. Chief Project Manager, SE Rly., Kharagpur,
6. Dy.Chief Mech. Engineer (Production, SERly) Kharagpur Workshops.
7. Estate Officer, SERly., Kharagpur,
8. Union of India, service through General Manager, S.E. Rly., GRC, Calcutta-43,
9. B.Dharma Rao, G/Man under CPWI/KGP
- 10A. Manoj Kumar -do-
11. Asis Kr. Panigrahi -do-

....Respondents

(By Advocate : Shri S. Chowdhury)

ORDER (ORAL)

HON'BLE J.K. KAUSHIK, JUDICIAL MEMBER:-

Joint petition has been filed on behalf of S/Shri S.Subba Rao and S.J. Somayajulu wherein order dated 28.12.1992 at Annexure A3 has been primarily assailed. Further action has been sought for including the name of the applicants in the allotment/regularisation order passed on 27.6.1994 at Annexure A5 and also to regularise the said quarter in the name of the applicant No.2. The applicant No.2 is the son of applicant No.1 and the claim is



based on father and son relation as both are being in employment and the allotment which was allotted to the applicant No.1 and the applicant No.2 continuing in the same for the period of more than six months. The basic ground for claim is that of discrimination. The learned counsel of the applicants has been more than fair to cut shot the controversy and submitted that the applicant No.2 did not fulfil the criteria of continuing in the same accommodation and regularizations of the same but since a number of similar persons have been granted the said benefits, why the applicants should not have been allowed the same. There is an hostile discrimination.

2. We find that the facts and grounds raised in the Original Application have been controverted by the respondents who have resisted the claim of the applicants. We refrain from narrating the factual aspects of the case for the reason that we do not have jurisdiction to entertain this very Original Application as indicated in the succeeding paras.

3. In this case, the applicants are challenging an order which has been passed under sub Rule (1) of Rule 5 of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 by the Estate Office, Kharagpur on 28.12.1992 wherein an order has been passed declaring the applicant No.2 as unauthorised occupant and also asked the applicants to vacate the said accommodation. The law position in this regard is well settled by the Apex Court in the case of Union of India and Rasila Ram and Others reported in 2002 SCC L&S 1016 wherein Lordship has been pleased to hold that "By no stretch of imagination the expression "any other matter" in the Section 3(q)(v) of the Administrative Act would confer jurisdiction on the Tribunal to go into the legality of the order passed by the competent authority under the provisions of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971.

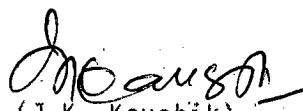


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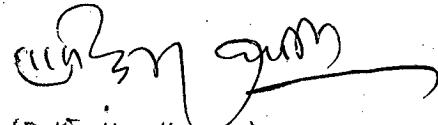
In this view of the matter, the Tribunal has no jurisdiction to entertain the matter. We have absolutely no hesitation to follow the verdict of the Apex Court rather we are bound to follow the same.

4. In view of what has been stated and discussed above, we hold that this Bench of this Tribunal does not have any jurisdiction to entertain the present case as such for want of jurisdiction and the same stands dismissed. However, this order shall not preclude the applicants from approaching to appropriate forum for redressal of their grievances as may be advised to them. Rule issued earlier shall stand discharged.

5. Registry shall return the original records of the case as per rules, in case any application is made on behalf of the applicants for the same. No costs.


(J.K. Kaushik)
Judicial Member

/ravi/


(R.K. Upadhyaya)
Administrative Member