

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH

O.A. 55 of 1997

Present : Hon'ble Mr. D. Purkayastha, Judicial Member.

Kumari Mahua Roy, daughter of Shanti Ranjan Roy, working as Production Assistant in Doordarshan Kendra, Calcutta, residing at Doordarshan Staff Quarters, 8th Floor, Room No. D-26, Golf Green, Calcutta-700 045.

...Applicant.

- v e r s u s -

1. Union of India service through the Secretary, Deptt. of Information and Broadcasting, Government of India, Shastri Bhawan, New Delhi.
2. The Director General Doordarshan, Government of India, Mandi House, Copernicus Marg, Nes Delhi-110 001.
3. The Director, Doordarshan Kendra, Calcutta, Golf Green, Calcutta-700 045.
4. The Deputy Director General (Eastern Region) Doordarshan Kendra, Golf Green, Calcutta.
5. The Deputy Director, Administration, Doordarshan, Golf Green, Calcutta-700 045.

...Respondents.

For the applicant : Mr. P.C. Das, counsel.

For the respondents : Ms. K. Banerjee, counsel.

Heard on 5.1.1998

Order on 5.1.1998

O R D E R

D. Purkayastha, JM

I have heard both the parties. The main grievance of the applicant Kum. Mahua Roy who is Production Assistant in Doordarshan Kendra, Calcutta is that she was allotted to stay in Double Room Transit accommodation (Room No. D-26) for one year with effect from 1.2.96 vide order dated 1.2.96 (Annexure-D) issued by the Director, Doordarshan Kendra, Calcutta (Respondent No.3) subject to the following conditions:-

- (a) If the occupant does not vacate the quarter within permissible period of stay in the quarter, the possession of the quarter shall be treated as unauthorised occupant;
- (b) For such unauthorised occupation, penalty will be imposed as per Govt. Rules;
- (c) That she will not ask for any extension beyond one year whatsoever;
- (d) She is not entitled to draw HRA.

But it appears that the said order of Director, Doordarshan Kendra, Calcutta had been modified by the Dy. Director (Respondent No.5) allowing her to stay in double room transit accommodation for a period of 3(three) months from the month of February 1996 to April 1996, vide letter dated 12.4.1996 (Annexure-E). Since she did not vacate the quarter after expiry of April 1996, the Deputy Director (Respondent No.5) issued another order dated 23.7.96 (Annexure-F) asking her to vacate the transit room No. D-26 immediately at the latest by 31.7.96 failing which she would be declared unauthorised occupant and she would have to pay demurrage charge at the rate of Rs.55/- per square meter with effect from 1.8.96 in addition to the normal licence fee. And thereafter Dy. Director (Respondent No.5) issued another order dated 2.1.97 (Annexure-H) asking her to vacate the room by 31.1.97 failing which the demurrage charge will be levied upon her.

2. Feeling aggrieved by the said order dated 2.1.97 (Annexure-H) the applicant approached this Tribunal and obtained stay order from this Tribunal and due to stay order she was allowed to continue occupation till date.

3. The case is resisted by the respondents by filing a written statement. They denied the allegation of the applicant made in this application. And it is stated that Kum. Mahua Roy never applied for hostel accommodation when application for allotment of quarter was called for. Her junior Smt. Jolly Ghosh applied for the quarter and her name was listed in the panel on 29.4.95 and Kum. Mahua Roy also applied on 24.7.95 stating her problems and requested for providing of a hostel accommodation on compassionate grounds. But by that time a panel was drawn up and the Director(Respondent No.3) had no authority to allot the hostel accommodation out of turn to her. Thereafter a complaint was lodged to Director, Doordarshan Kendra, Calcutta (Respondent No.3) with an endorsement to the Secretary, M.I.B. D.G., Doordarshan etc. by the ARTEE. In response to the complaint made by ARTEE, the Director General, Doordarshan sought some details information of allotment of Transit Room accommodation in favour of Kum. Mahua Roy, P.A. Accordingly this office furnished the detailed

from February '96 to April '96 instead of one year from 1.2.96 to 31.1.97. On the basis of the detailed comments furnished by Doordarshan Kendra, Calcutta, Director General, Doordarshan, New Delhi (Respondent No.2) vide their O.M. dated 27.6.1996 directed the Director, Doordarshan Kendra, Calcutta that the transit Room occupied by Kum. Mahua Roy, P.A. required to be vacated by the end of April, 1996. Accordingly Kum. Mahua Roy, P.A had been served Memo dated 23.7.96 directing to vacate the Transit Room accommodation latest by 31.7.96 since the direction received from the Director General, Doordarshan on 12.7.96 and she was also declared unauthorised occupant from 1.8.96 and demurrage charge will have to pay at the rate of Rs.55/- per sq. mtrs. And thereby the application is devoid of merit and liable to be dismissed. The applicant filed rejoinder in this case.

4. Ld. advocate, Mr. Das, appearing on behalf of the applicant submits that the Deputy Director has no jurisdiction to alter or modify the order passed by the Higher authority, Director, Doordarshan Kendra, Calcutta allowing the applicant to stay in the said accommodation for one year. Both the orders are arbitrary, illegal and are liable to be quashed. Mr. Das, Id. counsel for the applicant has drawn up my attention to the letter dated 2.1.97 (Annexure-H to the application) and submits that by that letter demurrage charge has been fixed w.e.f. 1.5.96 ignoring the order of the Director, Doordarshan Kendra, Calcutta, ~~on 1.4.96~~ (Annexure-D to the application). As per order of the Director, Doordarshan, her period of stay will expire on 1.2.97.

5. Mrs. Kanika Banerjee, Id. counsel appearing on behalf of the respondents submits that the Director, Doordarshan Kendra has no authority to allot the double room transit accommodation as per rules and the allotment of quarters under the Doordarshan are to be made by the Dy. Director (Administration), Doordarshan. So the order was issued by the concerned Dy. Director as per rules. Ms. Banerjee, Id. counsel further submits that even after expiry of the period i.e. 1.2.97 she did not vacate the quarter in pursuance of the original order of allotment order dated 1.2.96 issued by the Director of Doordarshan, so, she was liable to pay demurrage charge at least from 1.2.97 as per order dated 1.2.96 where it is specifically mentioned that for such unauthorised occupation penalty

will be imposed as per Govt. rules.

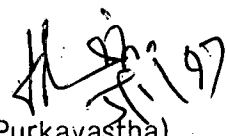
6. I have considered the submission of the Id. counsel for both the parties in this respect. It remains undisputed that the Director, Doordarshan (Respondent No.3) is the higher authority than that of Dy. Director (Administration) Doordarshan, Calcutta (Respondent No.5). And Director, Doordarshan by order dated 1.2.96 allotted double room transit accommodation (R.No. D-26) for one year with effect from 1.2.96 subject to certain conditions mentioned above. But according to respondents the Dy. Director, Administration on the basis of the complaint made from the third party referred the matter to the Director General of Doordarshan (Respondent No.2) who had modified the order of Director, Doordarshan (Respondent No.3). But the order dated 12.4.96 (Annexure-E) and memo dated 23.7.96 (Annexure-F) issued by the Dy. Director (Administration) do not show that impugned orders (Annexures-E & F) were issued with the approval of the higher authority i.e. Director General (Respondent No.2). According to the respondent No.5, he received the order from the respondent No.2 on 12.7.96 but the order dated 12.4.96 (Annexure-E) was issued on 12.4.96. It appears that the memo dated 2.1.97 (Annexure-H) was issued with the approval of Director General communicated vide order dated 27.6.96. In view of the fact, the Dy. Director, Administration has no authority to issue order dated 12.4.96 (Annexure-E) modifying the order of the superior authority without having any approval of the superior authority or from the authority who had passed the order of allotment in favour of the applicant.

7. But the fact remains that the period of allotment had already expired on 1.2.97 and the applicant obtained stay order from the Division Bench of this Tribunal to stay in the said transit accommodation and due to such stay, she was allowed to continue till date. As per order of the Director, Doordarshan, it is found that the applicant was authorised to stay in the said transit accommodation till 1.2.97 and thereafter she has no right to stay without having any order of allotment in favour of her. From the Annexure-H, it is found that demurrage charge has been fixed with effect from 1.5.96 instead of 1.2.97.

8. In view of the aforesaid circumstances, I am of the view that Dy. Director, Administration has no jurisdiction to modify the order dated 1.2.96 (Annexure-D) & to realise the demurrage charge for period upto

1.2.97. But at the same time, it can be said that Dy. Director, Doordarshan has authority to realise the demurrage charge after expiry of 1.2.97 since the applicant did not vacate the quarter as per order dated 1.2.96 (Annexure-D). — Though she was allowed to stay due to injunction order passed by this Tribunal, it is found from the order dated 1.2.96 (Annexure-D) that ^{on date of} expiry of the period of allotment ⁱⁿ on 1.2.97, she should be treated unauthorised occupant as per Govt. rules. It is now well settled law as per judgment reported in 1997 SCC (L&S) 678 that interim order granted by the Court or Tribunal does not create any right to the party. In view of the well settled law, the said interim order passed by this Tribunal does not confer any right upon the applicant to hold quarter after expiry of the period i.e. 1.2.97, as per order dated 1.2.96 (Annexure-D).

9. It is submitted by the Id. counsel for the applicant that applicant's mother is suffering from heart disease and other ailments and she was not provided with any quarter for residing with her mother. So it is the duty of the respondents to look after the welfare of the employees if they face difficulty and hardship for want of accommodation. So I hope she may be allotted quarter as per rules according to seniority list maintained by the Committee in respect of the allotment of the quarter to the employees. However, it may be clarified that the applicant ^{though} has no right to stay in the quarter after expiry of the period i.e. 1.2.97 ^{and} appropriate authority may take action for realising penal rent in accordance with law, if she does not vacate the quarter in the meantime within 30 days from today. Accordingly the application is disposed of awarding no costs.


(D. Purkayastha)
M e m b e r (J)