

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

OA No. 523 of 1997

Wednesday, this the 20th day of August, 1997

CORAM

HON'BLE MR. A.M. SIVADAS, JUDICIAL MEMBER

1. K.N. Gopalakrishnan,
S/o Late M. Narayanan Nair,
Retired Block Development Officer and
Ex-officio Sub Divisional Officer,
Amini Sub District, Amini,
U.T. of Lakshadweep, now residing at
XXVIII/1187, Lakshami Nivas,
Near Padam Bus Stop,
P.O. Kadavanthra, Cochin-682020 .. Applicant

By Advocate Mr. MR Rajendran Nair

Versus

1. The Administrator,
U.T. of Lakshadweep, Kavaratti.
2. The Member Secretary,
Local Accommodation Board, Office of
the Executive Engineer, Lakshadweep
Public Works Department Division,
Jos Trust Building, Chittoor Road,
Ernakulam, Cochin-35
3. Union of India represented by the
Secretary to the Govt. of India,
Ministry of Home Affairs (ANL),
North Block, New Delhi-110 001 .. Respondents

By Advocate Mr. S Radhakrishnan, ACGSC

The application having been heard on 20.8.1997, the
Tribunal on the same day delivered the following:

O R D E R

The applicant seeks to quash A-3, A-5 and A-7 orders.

2. The ground mainly pressed into service by the learned
counsel for the applicant is that A-3, A-5 and A-7 are
issued detrimental to the interest of the applicant without

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issuing any prior notice to him and, therefore, these orders are issued in violation of the principles of natural justice.

3. A-3 order dated 22-12-1995 directs the applicant to remit an amount of Rs.7821 urgently towards the rent due for the residential accommodation retained by him from 17th of February, 1995 to 15th of August, 1995. The said order is not preceded by any notice. So, it is in violation of the principles of natural justice. It is true that the respondents are not now seeking to recover Rs.7821 from the applicant, but only Rs.5305 as shown in A-5 and A-7. The amount of Rs.5305 shown in A-5 and A-7 orders is on the presumption that the applicant was in unauthorised occupation of the Government quarters. There is no mention anywhere in A-5 and A-7 that the applicant was in unauthorised occupation of the Government quarters. Damage rent and double licence fee the respondents have sought to be recovered from the applicant as per A-5. It can only be, if the applicant is in unauthorised occupation. In the absence of a finding by the authority concerned that the applicant is an unauthorised occupant of the Government quarters, there could not be an order to recover damage rent and double licence fee from the applicant.

4. As A-3 is not preceded by a show cause notice and A-5 and A-7 do not say anything to the effect that the applicant was in unauthorised occupation of the Government quarters, these orders are not sustainable. As it is seen from A-5 and A-7 that the respondents are not now insisting on

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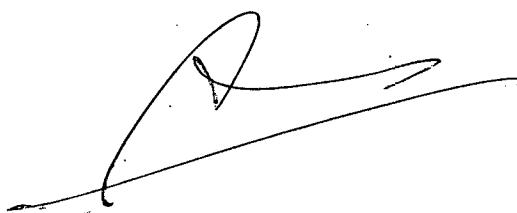


recovering Rs.7821 from the applicant but only the amount shown in A-5 and A-7, A-3 does not assume any importance and therefore it is not necessary to quash A-3 order. As far as A-5 and A-7 are concerned, for the reason already mentioned, they are liable to be quashed.

5. Accordingly, A-5 and A-7 orders are quashed. This will not stand in the way of respondents issuing prior notice to the applicant and to proceed according to law for recovery of the dues in respect of the Government quarters occupied by the applicant.

6. Original Application is disposed of as above. No costs.

Dated the 20th of August, 1997



A.M. SIVADAS
JUDICIAL MEMBER

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LIST OF ANNEXURES

1. Annexure A3: The telegraphic message dated 22.12.1995 issued by second respondent.
2. Annexure A5: Order No.4/2/95-A.E(C)(Part file-2)/2726 dated 25.9.1996 issued by the Executive Engineer Office of the second respondent.
3. Annexure A7: Order No.4/2/95-A.E(C)(Part file-2)/298 dated 27.2.1997 issued by the Executive Engineer Office of the second respondent.

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