

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

ORIGINAL APPLICATION NO. 326 OF 2005

Dated the 25th October, 2007

CORAM:-

HON'BLE SMT. SATHI NAIR, VICE CHAIRMAN
HON'BLE Dr.KBS RAJAN, JUDICIAL MEMBER

Dr MK Showkat Ali,
S/o late A Hamza Haji,
Joint Director,
Central Leprosy Teaching & Research Institute,
Chengalpett, Tamil Nadu.

.. Applicant

[By Advocate: Mr MV Thampan)

-Versus-

1. The Administrator,
Union Territory of Lakshadweep,
Kavaratti.
2. The deputy Collector(Headquarters)
/Estate Officer,
Union Territory of Lakshadweep,
Kavaratti.
- 3 The Superintending Engineer,
Lakshadweep Public Works Department,
Union Territory of Lakshadweep,
Kavaratti.
4. Union of India,
Represented by Secretary,
Ministry of Health and Family Welfare,
Nirman Bhavan, New Delhi.

.... Respondents

[By Advocates: Mr S Radhakrishnan for R/1-3,
Mr. Shaji for Mr. TPM Ibrahim Khan, SCGSC)

This application having been heard on 25th October, 2007 the Tribunal on the same day delivered the following -

ORDER

(Ms. Sathi Nair, Vice Chairman):

The applicant in this OA claimed for the following relief:-

- 1) To call for the records leading up to Annexure-A/19 and quash Annexure-A/11, A/13, A/19 and A/20;
- 2) To issue a declaration that the applicant is not liable for any damage rent as alleged in Annexure-A/11, A/13, A/19 or A/20 for the period of his occupation of the Government quarter at Kavarathi till the expiry of the time granted by this Hon'ble Tribunal by Annexure-A/18 judgment,
- 3) To direct the respondent not to recover any amount by way of damage rent or interest from the applicant or from his pay and allowances;
- 4) To grant such other reliefs as this Hon'ble Tribunal may deem fit and proper in the facts and circumstances of this case; and
- 5) Award the cost of this proceeding to the applicant.

There was a delay of 530 days in presenting the application, which was condoned on payment of costs and the OA was admitted.

2] Brief facts, as stated by the applicant, are that he was originally appointed in the Central Health Services as a Medical Officer in May 1998. In the year 1990 he was appointed as Public Health Specialist on adhoc basis against the post of Deputy Director and was posted at Kavarati. In March 1992 he was selected by the UPSC as Public Health Specialist Grade-II on

regular basis and he was subsequently promoted as Deputy Director (Medical and Health Services at Lakshadweep) and posted at Kavaratti. The applicant was, thereafter, transferred and posted at Coonoor (TamilNadu) and in April 1997 he was again transferred and posted at Kavaratti as Deputy Director of Medical & Health Services. On the basis of a complaint the post of Deputy Director of Medical & Health Services was shifted to Androt Island and the applicant joined on 14.6.1999. Thereafter he was transferred and posted to Central Leprosy Teaching and Research Institute at Chengalpattu (Tamil Nadu) w.e.f. 17.5.2001. On his transfer to Androt he had retained his type IV quarter and left his wife and children at Kavarati as there was no school following CBSE Syllabus. According to the applicant, he is entitled to retain the type IV quarter for 3 years as provided for in the Appendix to the FR Part-I, and he, therefore, represented before the then Administrator for allowing him to retain the quarter, which was allowed.

3] Meanwhile, the 3rd Respondent had issued a telegram dated 31.3.2000 to the applicant to vacate the quarter alleging that the occupation is unauthorized. The applicant represented before the Administrator for allowing him to retain the quarter, however, the 2nd respondent vide order dated 30.5.2000 directed the applicant to vacate the quarter within 15 days. He also represented the matter before the Director of Estates, Ministry of Urban Development. Being aggrieved, the applicant had filed

OA No.626/2000 before this Tribunal and the Tribunal by order dated 8.6.2000 allowed the applicant to occupy the quarter at Kavarathi for another two months. Subsequently, the impugned notice was issued by the 2nd Respondent under Section 7(3) of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 proposing to recover an amount of Rs. 86,426/-, on which the present OA has been filed.

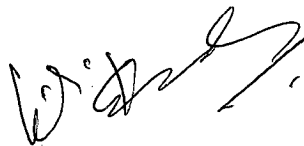
4] Reply statement has been filed by the Respondents and rejoinder was also filed by the applicant. We have heard learned counsel for the parties on 18.7.2007. Since applicant has mainly alleged discriminatory treatment on the ground that he is a Central Government employee as against other Lakshadweep Government Employees, the Respondents were directed to furnish details of all those cases mentioned by the applicant as to whether any such extension was granted to other employees. Respondents have not given any explanation to the same. When things stood thus, it is noticed that the Apex Court in *Union of India -vs- Rasila Ram and Ors*, reported in (2001)10 SCC 623, as regards the matter of jurisdiction of the Tribunal in such matter relating to eviction of unauthorized occupants from Government quarters observed that such matter does not come within the purview and jurisdiction of the Administrative Tribunal. The relevant portion is quoted below:-

“2. The Public Premises (Eviction of Unauthorised) Occupants) Act, 1971 (hereinafter referred to as "the Eviction Act") was enacted for
 ↪ eviction of unauthorized occupants from public premises. To attract

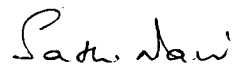
the said provisions, it must be held that the premises was a public premises, as defined under the said Act, and the occupants must be held unauthorized occupants, as defined under the said Act. Once a Government servant is held to be in occupation of a public premises as an unauthorized occupant within the meaning of the Eviction Act, and appropriate orders are passed thereunder, the remedy to such occupants lies, as provided under the said Act. By no stretch of imagination the expression "any other matter" in Section 13(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. In this view of the matter, the impugned assumption of jurisdiction by the Tribunal over an order passed by the competent authority under the Eviction Act must be held to be invalid and without jurisdiction. This order of the Tribunal accordingly stands set aside. The appeals are accordingly allowed."

5] In the light of the legal position categorically stated by the Apex Court, we refrain from hearing the matter further and the OA is dismissed for want of jurisdiction.

[Dated the 25th October, 2007]



(Dr. KBS Rajan)
JUDICIAL MEMBER



(Ms Sathi Nair)
VICE CHAIRMAN