

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
ERNAKULAM BENCH

O. A. No. 367/91  
~~XXXXX~~ No.

199

DATE OF DECISION 16-7-1992

OP Sudhakaran and others Applicant (s)

Mr Abraham Vakkanal Advocate for the Applicant (s)

Versus

The Chief Engineer, Cochin Zone,  
Kataribag, Naval Base, Cochin Respondent (s)  
and others.

Mr NN Sugunapalan, SC GSC Advocate for the Respondent (s)

CORAM :

The Hon'ble Mr. PS Habeeb Mohamed, Administrative Member

and

The Hon'ble Mr. N Dharmadan, Judicial Member

1. Whether Reporters of local papers may be allowed to see the Judgement? Yes
2. To be referred to the Reporter or not? No
3. Whether their Lordships wish to see the fair copy of the Judgement? No
4. To be circulated to all Benches of the Tribunal? No

JUDGEMENT

Shri N Dharmadan, J.M

The applicants are Civilian Tradesmen included in the category of 'Key-personnel' for the purpose of accommodation in the Naval Base Headquarters under the Respondents. They occupied residential accommodation within the Naval Headquarters meant for the 'Key-personnel' working in the MES. While the applicants are occupying quarters, Annexures A1, A2 and A3 were issued to all the applicants charging penal rent as per Annexure-1 and threatened recovery of the same from their salary. They were also issued notices directing them to vacate the quarters wherein it was informed that the building in which they are occupying shall be demolished for the development of INSH Sanjeevini and hence, the applicants should vacate for clearing the area.

It is under this circumstance that the applicants have filed this application on the allegation that there are about 36 persons, like the applicants, who are occupying the quarters, but notice for recovery of penal rent are issued only to these applicants. The applicants are singled out and differential treatment is meted out to them and hence Annexure A1, A2 and A3 are liable to be quashed. They have also prayed for a direction to the respondents that the respondents have no authority to recover "damaged rate of rent" or "licence fee" from the applicants at the exorbitant rates being house rent for the quarters occupied by them.

2        The respondents have filed a detailed counter affidavit and additional counter affidavit stating that for development of INSH Sanjivani, it is absolutely necessary to demolish the quarters which are occupied by the applicants illegally without obtaining the allotment orders. Accordingly, all the quarters illegally occupied by the applicants will be vacated for clearing the area.

3        On hearing the counsel on both sides, a doubt has arisen about the statement contained in the reply statement. So, we directed the learned counsel by order dated 2.7.92 to submit a statement explaining the requirement for evicting the applicants and demolition programme of the buildings. Accordingly, a statement was filed on 13.7.92 in which they have stated as follows:

12        " It is decided by Headquarters Southern Naval Command, Cochin that all the occupants at Hoste Camp are to be evicted for the purpose of demolition. In this effect notices were served.

" Demolition of the buildings will be carried out immediately on vacation."

4           The learned counsel for the applicant again asserted by filing an additional rejoinder that the applicants are alone singled out for the purpose of eviction from ~~xxx~~ the quarters and imposing penal rent. He further submitted that no notice has been issued to the other occupants in the quarters in Hoste Camp.

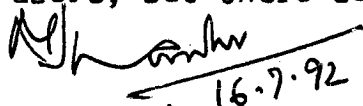
5           The learned counsel for the respondents, however, denied the statement and submitted that uniform treatment adopted <sup>4</sup> will be ~~for~~ for eviction of quarters at Hoste Camp and notices will be issued to all and the demolition will commence immediately after the vacation of all occupants.

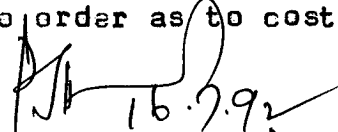
6           We record this statement and in the light of the statement, we are of the view that the applicants have no right to be continued in the Quarters indefinitely without any authorisation so as to prevent the expansion as <sup>4</sup> programme/stated by the respondents. However, we are satisfied that the applicants were singled out for the purpose of realising penal rent and licence fee as mentioned in Annexure-1. Though similarly situated persons are also occupying in the other quarters, no such action was taken against them, as has been done in the case of the applicants. It is clear from the averments and pleadings available in this case that the decision against the applicants are ~~un~~ sustainable. They have also submitted that HRA is being deducted from their salary. The learned counsel for the applicant

submitted that the applicants are liable to pay rent for the quarters only at the normal rate and that is being deducted from their salary in every month, according to the rules. They have no objection in continuing this position till they vacate their quarters. This assurance is also recorded. Under these circumstances, we find that there is no liability on the part of the applicants to pay any additional rent or ' licence fees ' at the penal rate.

7 In this view of the matter, we are satisfied that the Annexure A1 A2 and A3 cannot be sustainable and hence they are liable to be quashed. We do so. We make it clear that the respondents can evict the applicants from the quarters pursuant to the notices already issued to them requesting vacating the quarters provided they adopt uniform steps against others occupying quarters in the same area at Hoste Camp. In the matter of eviction and rehabilitation for development of INSH Sanjivani, the applicants should be treated on par with other occupants <sup>all</sup> in the quarters in this area.

8 The application is allowed to the extent as indicated above, but there will be no order as to costs.

  
(N Dharmadan)  
Judicial Member

  
(PS Habeeb Mohamed)  
Administrative Member

16-7-92