

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A.No.391/2003.

Thursday this the 15th day of May 2003.

CORAM:

HON'BLE MR.T.N.T NAYAR, ADMINISTRATIVE MEMBER
HON'BLE MR.K.V.SACHIDANANDAN, JUDICIAL MEMBER

Gopinathan Pillai, REF/MECH.,
C/o The Garrison Engineer (E/M),
Kattaribagh, Naval Base,
Kochi - 4. Applicant

(By Advocate Shri Sajan Mannali)

Vs.

1. The Station Commissioner,
Chief Engineer, Navy,
Kattaribagh, Naval Base,
Kochi - 4.
2. The Executive Engineer,
Garrison Engineer E/M,
Kattaribagh, Naval Base, Kochi-4.
3. Union of India, represented by
Secretary, Ministry of Defence,
New Delhi. Respondents

(By Advocate Shri P.J.Philip, ACGSC)

The application having been heard on 15th May 2003,
the Tribunal on the same day delivered the following:

O R D E R

HON'BLE MR.T.N.T. NAYAR, ADMINISTRATIVE MEMBER

The applicant in this case is a Refrigeration Mechanic working in the office of the Garrison Engineer (E/M), Kattaribagh, Naval Base, Cochin. He is aggrieved by A-1 order dated 13.3.1999 of the 2nd respondent calling upon him to vacate/evict the unauthorised occupants staying in the residential Quarters No.54/3, Type II, allotted to him within 60 days from the date of the said communication. It would appear that on receipt of A-1 communication, the applicant approached the Hon'ble High Court by filing O.P.No.11777 of 1999 challenging the said A-1 order. The Hon'ble High court noticed that the

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Petitioner, being a civilian employee under the Military Engineering Service, ought to have approached the C.A.T. for appropriate reliefs. Taking note of the fact that the O.P. happened to be filed before the High Court in view of there being no sitting of the C.A.T. at the relevant time, the Hon'ble High Court directed the applicant to approach this Bench of the C.A.T. for appropriate reliefs. As an interim order the Hon'ble High Court ordered that the petitioner should not be evicted for one month from the date of the Court's order so as to enable him to move this Tribunal with proper application, the applicant challenges the order in question. It was also specifically mentioned by the Hon'ble High Court that, if there was any limitation regarding the cause of action in this case, the period taken by the petitioner for bonafide prosecuting the case before the High Court should be excluded while computing the period of limitation.

2. We notice that between 1999 and 2003, the applicant was prosecuting the case before the Hon'ble High Court and therefore we are not examining the question from the angle of limitation.

3. Shri P.J.Philip, ACGSC who takes notice on behalf of the respondents would state that A-1 order did not cause any damage to the applicant in as much as it only advised the applicant to cause eviction or vacation of unauthorised occupants in the Government accommodation allotted to the applicant as it was found on surprise check that the applicant had allowed unauthorised persons to occupy his quarter which amounted to unpermitted act of subletting. Learned counsel would state that the applicant was given sixty days time for vacation of the

unauthorised occupants and it was for the applicant to furnish necessary explanation or information in that regard. It is also pointed out that no further action on the applicant's A-3 explanation has been taken which would mean that no prejudice or damage has so far been caused to the applicant so as to justify in the O.A. to be moved before this Tribunal or any further action by this Tribunal either. Shri Sajan Mannali, learned counsel for the applicant would maintain that the issue of A-1 order would imply the eviction of the applicant and hence the application was admissible.

4. On going through the pleadings and other material on record, we find that the impugned A-1 order does not contain anything offensive to the applicant nor does it suggest any prejudicial action. The applicant was informed that on a surprise check it was found that some unauthorised persons were occupying the quarters allotted to the applicant. On the basis of that, the applicant was advised to vacate or evict as unauthorised occupant, within a period of 60 days from the date of A-1 order. We find that the applicant has filed a detailed explanation A-3 dated 22.4.99, regarding the factual situation. We do not find that the respondents have taken any further action thereon. From the available facts we infer that the respondents have left the matter there. In any case, since A-1 is only an intimation of the responsibility of the applicant to vacate or evict the unauthorised occupant, it does not purport to be a cancellation of the quarters already allotted. We do not find any reason for the applicant to apprehend that the order of

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allotment of quarters has been cancelled. There is no such cancellation. For this purpose we quote the impugned order in full.

CANCELLATION OF ALLOTMENT OF GOVT. ACCN: SUBLETING/HIRING & OCCUPATION OF UNAUTHORISED OCCUPANTS IN GOVT. MD ACCN AT KOCHI.

1. During a surprise check/verification of occupants staying in Govt. Accn. at Kataribagh, Kochi carried out by a Board on 11.Feb. '99, it was revealed that Qr.No.54/3, Type II. allotted to you was found to be subletted/occupied by unauthorised occupants.

2. As per the recommendatins of the Board and existing rules on the subject (SRO 308 Para 17(3), subletting/hiring of Govt. Accn allotted to you for your bonafide use, is a breach of laid down norms, and therefore the allotment of the govt. Accn. made to you is hereby cancelled.

3. You are, therefore, advised to vacate/evict the unauthorised occupants staying in your Qrs. within 60 days from the date of this order in accordance with para 17(3) of SRO 308/78.

4. Please note that in case of over stayal in residence after cancellation of allotment, you will be liable to pay damages for use and occupation of residence, services and furniture, equal to the market licence fee, as per terms of SRO: 308 Para 18. In addition, you will also be liable for eviction under the public premises (Eviction of unauthorised occupants Act 1971 (40 of 1971).

5. Please ack. receipt."

5. From the above, it is clear that no order of cancellation has been passed by the respondents. Therefore, the applicant does not have a cause of action at in praesenti to be pressed. In these circumstances, this O.A. is to be dismissed, as there is no specific relief to be given. However, we would observe that if the order of allotment of the quarters in favour of the applicant has to be cancelled, under the facts and circumstances

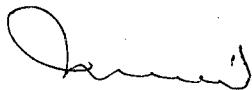
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narrated in A-1 order, it shall be done after giving the applicant adequate opportunity to state his case. With this the O.A is disposed of with no order as to costs.

Dated the 15th May, 2003.



K.V. SACHIDANANDAN
JUDICIAL MEMBER



T.N.T. NAYAR
ADMINISTRATIVE MEMBER

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