

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW BOMBAY BENCH, NEW BOMBAY

CAT/BOM/STAMP NO.329/87

Shri R.M.Tapase,
C-34/4, P&T Colony,
Sahar Road,
Bombay - 400 099

.. Applicant

V/s

1. Union of India
through
The Estate Officer,
Post Master General's Office,
Bombay - 400 001.
2. The Estate Officer,
Post Master General's Office,
Bombay - 400 001. .. Respondents

Coram: Hon'ble Member (A) L.H.A.Rego.
Hon'ble Member (J) M.B.Mujumdar.

Appearance:

1. Mr.P.N.Godge,
Advocate for the applicant.
2. Mr.S.R.Atre,
Advocate for the Respondents.

ORAL JUDGMENT
(Per M.B.Mujumdar, Member(J))

Date: 18-5-1987.

We have now heard Mr.Godge, the learned Advocate for the applicant and Mr.S.R.ATRE, the learned Advocate for the Respondents on the point of admission and interim relief.

2. The applicant's father Maruti R.Tapase was working in the Posts & Telegraphs Department as an Overseer. In February 1985, he was allotted residential quarters in Block No.C-34/4 by the Posts and Telegraphs Department. On the ground of subletting the said quarters, Respondent No.2 took action against him under the Public Premises (Eviction of Unauthorised Occupants) Act, 1971. On 22-12-1986, an eviction order was passed by Respondent 2 against him for subletting his quarters in violation

of the rules. That order is at Ex. 'A' to the application. Against that order, the applicant preferred Misc. Application No. 11/87 in the City Civil Court at Bombay. But as he retired with effect from 1st of September, 1986 the appeal was not pressed. However, on his request, the Principal Judge stayed the execution of the above eviction order upto the end of May, 1987.

3. On 15-5-1987 the applicant filed this application under Section 19 of the Administrative Tribunals Act 1985 challenging the order of eviction passed against his father. It is his case that he is serving as a Postman since January, 1982 and is entitled to get the same quarters which his father was occupying. According to him, he has made a representation to the authorities in November, 1986 for allotting the same quarters to him but that is not yet considered. Hence he has filed this application for setting aside the order of eviction passed against his father and for directing the Respondents to allot the same quarters to him, or in the alternative, to allow him to retain the same till he is allotted some other quarters by the Respondents.

4. After hearing the Advocates, we find that the applicant is not having any right to claim the same quarters which ^{his} father was occupying. He has relied on a Circular dated 1st May, 1981. But neither a copy of that circular is attached to this application nor it was shown to us at the time of the arguments. Mr. S. R. Atre, the learned Advocate for the Respondents, has denied that the applicant is entitled to get the same quarters according to that circular. We notice that the eviction order against the applicant's father

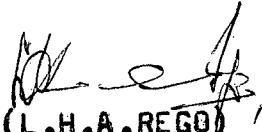
was passed on the ground that he had sublet the quarters to somebody else. He had no doubt ~~that he~~ appealed against that order but it was not pressed because he had retired with effect from 1st of September, 1986. The eviction order was served upon him. It is pertinent to note, that on his request the Principal Judge of the City Civil Court has stayed the execution of the eviction order till 31-5-1987. We, therefore, feel that the applicant is trying to circumvent the eviction order passed against his father and the order passed by the Principal Judge of the City Civil Court on the request of his father granting him time to occupy the above quarters till the end of this month only.

5. We may point out that admittedly, the application made by the applicant for allotting the same quarters to him is not yet decided by the authorities. It may be because he is not entitled to the same quarters. But, as the application is not decided and as the applicant has failed to move the higher authorities, we are of the view that he has approached this Tribunal without exhausting the remedies available to him for redressal of his grievance.

6. We, therefore, hold that there is no point worth being adjudicated upon by this Tribunal, against the order of eviction. The learned Advocate for the applicant urged that some time may be given to the applicant to vacate the quarters. But he has no legal right to occupy the quarters. We are not inclined to grant any further time to the applicant to vacate the said quarters. The eviction order was passed on 22-12-1986 and already more than five months have since elapsed. We, therefore,

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reject the application summarily under Section 19(3)
of the Administrative Tribunals Act, 1985.


(L.H.A. REGO) 18.5.87.
Member(A)


(M.B. MUJUMDAR)
Member(J)