

CENTRAL ADMINISTRATIVE TRIBUNAL
BENCH AT MUMBAI

ORIGINAL APPLICATION No. 83 /1996

Date of Decision: 6.9.96

A.R.Ahmed

Petitioner/s

Shri S.N.Pillai

Advocate for the
Petitioner/s

V/s.

Union of India & Ors.

Respondent/s

Shri V.S.Masurkar

Advocate for the
Respondent/s

CORAM:

Hon'ble Shri B.S.Hegde, Member (J)

Hon'ble Shri

- (1) To be referred to the Reporter or not ? *b*
- (2) Whether it needs to be circulated to *b*
other Benches of the Tribunal ?

B.S.Hegde
(B.S.HEGDE)
MEMBER (J)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, MUMBAI

OA.NO. 83/96

bn this the day of Sept 1996

CORAM: Hon'ble Shri B.S.Hegde, Member (J)

A.R.Ahmed
Block No.D, Flat 13,
NCHC Powai, Bhandup
Bombay 400 078.

By Advocate Shri S.N.Pillai ... Applicant
V/S.

1. Union of India through
The Flag Officer Commanding in Chief
Western Naval Command,
INS Ange, Bombay 400 001.
2. Vice Admiral Superintendent &
Estate Officer,
Naval Dockyard,
Bombay- 400 023.

By Advocate Shri V.S.Masurkar ... Respondents
C.G.S.C.

O R D E R

(Per: Shri B.S.Hegde, Member (J))

In this OA. the applicant is challenging the order passed by the respondents under Section 5 of the P.F.Act dated 22.12.1995. He prayed for interim direction that pending the hearing and final disposal of the application to restrain the respondents from taking any action in furtherance of the order dated 22.12.1995 (Exh.A-1), against which he obtained an ex-parte interim order on 19.1.1996 which continued from time to time till today.

2. Respondents in their reply denied the various contentions raised by the applicant. They further submitted that in order to eliminate the antisocial elements, Goondas and Beer Bar Girls etc. a mass surprise check was carried out and total numbers of 38 employees were suspended and against 114 employees

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disciplinary proceedings were initiated. The respondents further submit that to keep the situation under control surprise checks are periodically carried out. Accordingly, a surprise check of Qtr.No.D-13, NCHC (P) allotted to the applicant Shri A.R.Ahmed was also carried out on 21.2.1994 and allottee was not found residing there nor his family. However, it was found that Shri R.K.Naidu and his family members were staying unauthorisedly. It has also been confirmed that the children of the applicant are also not studying in the Station, i.e. Mumbai. The respondents submit that from the above facts it is obviously clear that the applicant had sublet the entire premises to the unauthorised persons for monetary gains, etc. and he should have taken prior permission to share the accommodation if it is required, the same is also not done. Since the matter relates to subletting of the premises and the permission for sharing accommodation was granted for a specific period upto 31.12.1993 and the same was required to be renewed for a further period. Whereas a Surprise Check was carried out and the applicant was not found staying there but only Mr.Naidu was staying there without taking prior permission. The respondents further submit that the applicant was given every opportunity to place the facts with documentary evidence before the Estate Officer which he has not availed of. Accordingly, notice under P.P.Act calling him for personal hearing before ASD was addressed at his residential address and official address and a copy of the same notice was sent through AMIRW(Estates), NCHC, Pawai for handing over to him. Though personal



hearing was given to the applicant, he did not availed of the same, accordingly, the competent authority has cancelled the allotment made in favour of the applicant on 17.8.1995.


3. Heard the arguments of learned counsel Mr. S.Pillai for the applicant and Mr.V.S.Masurkar, Addl.Standing Counsel for the Central Govt. for the respondents.

4. In the light of the pleadings, the question to be considered is whether the order passed by the Estate Officer, is it open to the applicant to approach the Tribunal under Section 19 of the C.A.T. Act. It is a well settled principle that P.P.Act is a self-contained code. Any order passed by the Estate Officer, the appeal lies under Section 9 of the P.P.Act to District Court or City Civil Court as the case may be. Section 15 of the P.P.Act specifically provides that "No court shall have jurisdiction to entertain any suit or proceeding in respect of the eviction of any person who is in unauthorised occupation of any public premises, etc.." Therefore, the applicant is to ^{prefer an} appeal against the order of the Estate Officer, instead he filed an application before this Tribunal and obtained an ex-parte order. Keeping in view the principle laid down in K.P.Gupta vs. Controller, Printing & Stationery 1996 (1) SCC 69, wherein the Apex Court has held that appellate jurisdiction is an integral part of justice delivery system, original jurisdiction is not transferred to CAT. Thereby, it is not open to the applicant to file application under Section

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19 of the A.T.Act to redress his grievance. As stated earlier P.P.Act is an independent Act and code by itself. Applicant is to file an application before the appropriate forum under Section 9, not to rush to the Tribunal for any relief at that stage.

5. In the result, since the alternative remedy is available to the applicant to file an appeal under P.P.Act, we direct the applicant to prefer an appeal under Section 9 if he so advised. Accordingly, if he has not been evicted from the quarters, ~~he~~ shall not be enforced the order of respondents for a period of 15 days till he obtains suitable orders from the appropriate forum. The OA. is disposed of with the above directions.


(B.S.HEGDE)
MEMBER (J)

mrj.