

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH

Original Application No: 348/99

Date of Decision: 20/4/99

Shri Lingam Nagabasava Raju Applicant.

Shri S.S. Karkera Advocate for
Applicant.

Versus

The Union of India & Anr. Respondent(s)

Shri R.R. Shetty for Shri R.K. Shetty Advocate for
Respondent(s)

CORAM:

Hon'ble Shri. Justice R.G. Vaidyanatha, Vice Chairman.

Hon'ble Shri.

(1) To be referred to the Reporter or not? *MM*

(2) Whether it needs to be circulated to
other Benches of the Tribunal? *MB*

abp.

R. G. Vaidyanatha
(R.G. VAIDYANATHA)
VICE CHAIRMAN

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
GULESTAN BLDG.NO.6, 4TH FLR, PRESCOT RD, FORT,
MUMBAI - 400 001.

ORIGINAL APPLICATION NO:348/99.

DATED THE 20th Day of April, 1999.

CORAM: Hon'ble Shri Justice R.G.Vaidyanatha, Vice Chairman.

Shri Lingam Nagabasava Raju,
Ex-IDC/BC of Ordnance Factory,
Ambernath, residing at Quarter
No.H-79/6 Ordnance Estate,
Ambernath, Pin-421 502.

... Applicant.

By Advocate Shri S.S.Karkera

v/s.

1. The Union of India,
through the Secretary,
Ordnance Factory Board,
Ministry of Defence,
10-A, S.K.Bose Road,
Calcutta - 700 001.

2. The General Manager,
Ordnance Factory Ambernath,
Ministry of Defence,
Ambernath-Pin-421 502.

... Respondents.

By Advocate Shri R.K.Shetty.

I O R D E R I

[Per Shri R.G.Vaidyanatha, Vice Chairman]

This is an application filed by the applicant praying for protection from eviction till the appeal filed by him against the order of Disciplinary Authority is disposed of. Learned counsel for respondents orally opposes the admission of the application. I have heard both the counsels regarding admission.

2. The applicant has already been removed from service by order of Disciplinary Authority dated 30/1/99. The applicant has preferred an appeal before Appellate Authority challenging the order of removal from service.

In the meanwhile the authorities have taken steps to evict the applicant from quarters and they have issued notice dated 19/3/99 calling upon the applicant to vacate the quarters failing which action for eviction will be taken under Public Premises Act (Eviction of Unauthorised Occupants)



Act 1971) and further the applicant will be liable to pay penal rent. Being aggrieved by notice dated 19/3/99, the applicant has filed this OA praying for protection till the disposal of his appeal.

3. The learned counsel for applicant submitted that he has already filed an appeal which is pending before Appellate Authority and he has given a representation to the Disciplinary Authority not to evict the applicant till the disposal of his appeal. He therefore argued that applicant should be protected from eviction till the disposal of appeal.

The learned counsel for respondents while opposing the prayer for protection ^{from eviction} submitted that the maximum permissible time limit is only one month from the date of order of removal from service as per rules and therefore applicant cannot get any relief contrary to the rules.

4. After hearing both sides, I find that Ordnance Factory have separate set of rules called as "quarters allotment rules" ~~where~~ it is clearly provided that in case of resignation, dismissal, removal from service or Transfer the permissible time limit for retention of quarters is only one month from the date of order., and granting any permission/ protection will be contrary to the rules. It may be that the applicant's appeal is pending before Appellate Authority and it may take some time. One of the grievance of the applicant is that in case he is now evicted and if he succeeds in the appeal, it will be very difficult to get back the quarters.

The learned counsel for respondents submitted that in that case the administration will immediately provide either the same quarters if it is vacant or any other suitable quarters within a reasonable time. Therefore this assurance by the learned counsel for respondents should remove the apprehension from the mind of the applicant that he may not



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penal rent. Being aggrieved by notice dated 19/3/99, the
applicant has filed this OA praying for protection till
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he has already filed an appeal which is pending before
Appellate Authority and he has given a representation to
the Disciplinary Authority not to evict the applicant till
the disposal of his appeal. He therefore argued that
applicant should be protected from eviction till the disposal
of appeal.

The learned counsel for respondents while opposing the
prayer for protection submitted that the maximum permissible
time limit is only one month from the date of order of removal
from service as per rules and therefore applicant cannot get
any relief contrary to the rules.


4. After hearing both sides, I find that Ordinance
Factory have separate set of rules called as "Quarters
allotment rules" where it is clearly provided that in case
of resignation, dismissal, removal from service or transfer
the permissible time limit for retention of quarters is only
one month from the date of order, and granting any permission
protection will be contrary to the rules. It may be that
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The learned counsel for respondents submitted that
in that case the administration will immediately provide
either the same quarters if it is vacant or any other suitable
quarters within a reasonable time. Therefore this assurance
by the learned counsel for respondents should remove the
apprehension from the mind of the applicant and he may not

get a quarter.

5. The learned counsel for applicant relied on decision of the Full Bench in the case of D.N.Singh & Others v/s. Union of India reported in Full Bench judgements Vol. II at page-1. In that case the question referred to the Full Bench was about the scope of appeal before Appellate Authority in the case of order of dismissal passed dispensing with the Disciplinary Enquiry. The Full Bench went into the question and laid down certain guidelines about the scope of Appellate Authority. Then at the end of the order, a request was made that the applicant in that case may be allowed to stay in the quarters. The Full Bench granted the prayer, after noticing that in the standing orders it is provided that when it is dismissal or removal from service, the question of order of eviction need not be issued. But in the present case, there is a separate set of rules that after one month from the date of removal from service or dismissal from service, the official is liable to vacate the quarters. There is no question of Employer and Employee relationship once order of removal is served and the service comes to an end. The quarters are provided to Government officials for due discharge of public duties. Once there is no such public duties due to order of removal from service, applicant cannot claim as of right that he is entitled to continue in quarters till disposal of appeal or till disposal of statutory remedies.

6. The learned counsel for applicant also brought to my notice my own order dated 23/4/98 in OA-912/98 where protection from eviction was given during the pendency of appeal. But in that judgement no question of law was involved. But in the present case, we are concerned with the statutory rules of Ordnance Factory, where it is clearly provided that a dismissed servant cannot stay for more than one month from the date of the order. Hence any direction to the respondents regarding eviction of applicant from the quarters till the disposal of appeal would be contrary to rules. But



however, on humanitarian grounds, I feel that the applicant should be allowed to continue in the quarters till end of June, 99. However, the question whether the applicant is liable to pay penal rent or normal rent after the expiry of one month from the date of Removal order is left open. It is also open to respondents to start the proceedings under the PP Act (Public Premises Act) to save time, but applicant should not be evicted physically on or before 30/6/99.

7. In the result, the application is disposed of at admission stage subject to observations above. No costs.

abp.


(R.G. VAIDYANATHA)
VICE CHAIRMAN