

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH

ORIGINAL APPLICATION NO: 469/2000

DATE OF DECISION: 18/12/2000

Shri V.S.Tivlekar

Applicant.

Shri D.V.Gangal

-----Advocate for
Applicant.

Versus

Union of India & Anr

-----Respondents.

Shri S.C.Dhawan

-----Advocate for
Respondents.

CORAM:

Hon'ble SHRI B.N.BAHADUR, MEMBER(A)

1. To be referred to the Reporter or not?
2. Whether it needs to be circulated to other Benches of the Tribunal?
3. Library.

No.

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(B.N.BAHADUR)
MEMBER(A)

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CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH
ORIGINAL APPLICATION NO:469/2000
DATED THE 18th DAY OF DEC. 2000

CORAM:HON'BLE SHRI B.N.BAHADUR, MEMBER(A)

Shri Vilas Shankar Tivlekar,
Junior Engineer-I
in Central Railway Workshop,
Parel
R/at - 271/4. RB III
Central Railway Colony,
Dr.Ambedkar Road,
Near Parel Workshop,
Parel, Mumbai - 400 012. ... Applicant

By Advocate Shri D.V.Gangal

V/s.

1. The Union of India,
Through
The General Manager,
Central Railway,
Headquarters Office,
Mumbai CST.
2. The Chief Workshop Manager,
Parel Workshop,
Central Railway,
Parel,
Mumbai - 400 012. ... Respondents

By Advocate Shri S.C.Dhawan.

(ORAL) (ORDER)

Per Shri B.N.Bahadur, Member(A)

This is a case where the facts in a very short compass, in that the applicant has challenged only letter dated 26/6/2000 made against him (Annexure A-1) page 13. Since the matter is of a simple nature, I am disposing this of at the stage of admission.

2. Learned Counsel, Shri Gangal and Shri S.C.Dhawan, have been heard for the respective sides. The facts of the case are that it is alleged by the Respondents that the Applicant has

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harboured/sublett his quarters to outsiders RB III 271/4, Central Railway Colony, an order of cancellation (Annexure A-1)

has been made. The order states inter alia as under:-

You are required to handover vacant and peaceful possession to the concerned Sec. Engr, Parel within a period of 15 days failing which appropriate proceedings under the P.P.E. Act 71 shall be initiated against you. You may also note that compensation/damages at the rate of Rs.49/- per sq.mt. for 76.30 sq.mts. plinth area amounting to Rs.3,749/- per months shall also be recovered from you from 14/6/2000 till vacation/eviction of Qtr. Please acknowledge the receipt.

3. Although some arguments were made on both sides, in regard to the Annexure-II on record also, it was agreed that this should be delinked from the OA before us since it is not questioned. Infact, as it transpires the respondents have made a separate order in regard to this through their order dated 27/9/2000, a copy of which is annexed at page-25 of the paperbook. We are therefore not going into this since the applicant agrees that it is not under challenge and that it is only through a separate OA that this can be challenged. It is further informed to us by Shri Gangal on instructions from his clients that an appeal was filed against order dated 27/9/2000 which is subsequently rejected and against which he will move as per law, *through a separate OA*.

BmB 4. We return to the main case before us, viz. the Impugned order dated 26/6/2000. It is the contention of the learned counsel, Shri D.V.Gangal, that this is passed without any show cause notice being issued. Shri S.C.Dhawan states that show cause notice is not necessary in this since it is implied in view of 15 days have been given for execution of the order.

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5. This issue has been decided in a large number of cases and it has been held that a clear cut show cause notice is necessary. The argument that show cause notice is implied in a

BnB ~~final~~ order just because 15 days time is given for its implementation is ~~not~~ ^{sustainable - BnB} It is patently wrong and by no stretch of imagination can the order dated 26/6/2000 could be implied to contain the show cause notice.

6. Hence the order dated 26/6/2000 having been issued without a show cause notice is liable to be quashed in view of this reason.

7. In consequence, the order dated 26/6/2000 is hereby quashed and set aside. The Respondents shall be at liberty to issue fresh notice and take decision in accordance with law and rules by providing opportunity for a reply to be given. Since the matter obviously should not drag on either side, the Respondents should issue show cause notice, if so advised, not later than six weeks from the date of receipt of copy of this order.

8. The OA is disposed of accordingly. No costs.

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(B.N.BAHADUR)
MEMBER(A)