

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

NEW BOMBAY BENCH

O.A. No. 667/90
T.A. No.

198

DATE OF DECISION 19-10-1990Suresh Dattaram Naralkar PetitionerMr.D.V.Gangal Advocate for the Petitioner(s)

Versus

Union of India & Ors. RespondentMr.P.M.Pradhan Advocate for the Respondent(s)

CORAM

The Hon'ble Mr. M.Y.Priolkar, Member(A)

The Hon'ble Mr. D.K.Agrawal, Member(J)

1. Whether Reporters of local papers may be allowed to see the Judgement ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the Judgement ?
4. Whether it needs to be circulated to other Benches of the Tribunal ?

Dreapt
9/10/90

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW BOMBAY BENCH

O.A.667/90

Suresh Dattaram Naralkar,
Storekeeper,
TT Section,
Machine Tools Prototype Factory,
Ambernath. .. Applicant

vs.

1. The Union of India
through
The General Manager,
Machine Tools Prototype Factory,
Ambernath.
2. The Secretary,
Ministry of Defence,
Department of Production,
New Delhi.
3. The Director General,
Ordnance Factory Board,
10, Auckland Road,
Calcutta. .. Respondents

Coram: Hon'ble Member(A)Shri M.Y.Priolkar

Hon'ble Member(J)Shri D.K.Agrawal

Appearances:

1. Mr.D.V.Gangal
Advocate for the
applicant.
2. Mr.P.M.Pradhan,Counsel,
for the respondents.

JUDGMENT:
(Per D.K.Agrawal, Member(J))

Date: 19-10-1990

This application under Section 19
of the Administrative Tribunals Act has been
filed for quashing the notice dated 6-8-1990,
Annexure 'A'. The facts are that the applicant
is a Storekeeper in Machine Tool Prototype Factory,
Ambernath and as such in occupation of quarter
No.H-42/1, on father to son basis allotment order
after retirement of his father in 1986. The
employer, it appears, found that the applicant

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was not in occupation of the quarter and that he had sublet it to unauthorised person. Therefore they issued the impugned notice dtd. 6-8-1990 terminating the tenancy of the applicant and calling upon to vacate the same within the specified time failing which the eviction proceedings would be initiated by the prescribed authority under the Public Premises(Eviction of Unauthorised Occupants)Act,1971. Consequently the applicant has approached us.

2. We have heard the arguments raised by the learned counsel for the applicant lasting for about an hour. However, we are of the opinion that the present application is premature. The reason is that after the decision in the case of Rasila Ram and Others v. Union of India and others, AISLJ 1989 (2)(CAT) 342, the Tribunal has jurisdiction in matters of eviction, allotment and allied matters, the same being matters related to service of an employee. However, the Tribunal cannot substitute itself for the Prescribed authority appointed under the Public Premises (Eviction of Unauthorised Occupants)Act,1971. It means that if a person becomes an unauthorised occupant in respect of a public premise and he has to be evicted therefrom, the Estate Officer has to conduct proceedings as laid down in Section 4 of the aforesaid act. The Tribunal is not the proper

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forum to consider the question whether the allottee has or has not sublet the premises as alleged by the administration. The procedure adopted in such a case would be that the administration has to lodge a complaint with the Estate Officer. The Estate Officer in turn has to issue ~~a notice to~~ ^{notice} showcause ~~as~~ provided for in section 4 of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971.

In the instant case also the administration has given a notice to the allottee for his benefit ^{w required him to} and L face the proceedings before the Estate Officer appointed under the aforesaid Act. It is true that the impugned notice has not been happily worded inasmuch as the administration has already taken a decision that the applicant has sublet ~~the~~ the premises and therefore he is liable to be evicted. However, notwithstanding the unhappy language used in the notice the proceedings for eviction ^{w to be} has been taken by the Estate Officer. The procedure to be followed would be the same i.e. the Estate Officer has to issue a showcause notice under Section 4 of the aforesaid act, the parties will be at liberty to adduce ^{evidence} ~~there~~ in support of their ^{case} ~~contents~~. Thereafter the finding will be recorded by the Estate Officer whether the applicant ^{is} ~~will be~~ liable to be evicted or not.

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Such an order passed by the Estate Officer will be implemented subject to the decision of the Tribunal i.e. the applicant can approach the Tribunal after the decision of the Estate Officer.

3. In this view of the matter the present application is premature and liable to be rejected. However, we wish to make it clear that the Estate Officer will not be guided by the findings of the Administration that the premises has already been subletted. The Estate Officer will take a decision on merits after ^{taking} into account the evidence adduced by both the parties whether the premises has been occupied by Shri D.R.Sawant as alleged by the administration or that the same were kept under the care of Shri D.R.Sawant for a temporary period of 15 days during the absence of the applicant for the purpose of security of the premises.

4. With these observations we reject this application at the admission stage itself leaving the parties to bear their own costs.

D.K. Agarwal
19.X.90.

(D.K.AGRAWAL)
Member (J)

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(M.Y.PRIOLKAR)
Member (A)

CENTRAL ADMINISTRATIVE TRIBUNAL, NEW BOMBAY.

Review Application No. 70 of 1950

IN

Registration (O.A.) No. 667 of 1950

Suresh Dattaram Naralkar Applicant.

Versus

Union of India & others Respondents.

Hon'ble M.Y. Priolkar, A.M.
Hon'ble D.K. Agrawal, J.M.

(By Hon. D.K. Agrawal, J.M.)

This review application, filed under Section 22(3)(f) of the Administrative Tribunals Act, 1950, is directed against the judgment and order dated 15.10.1950 passed in O.A. No. 667 of 1950, Suresh Dattaram Naralkar v. Union of India & others. The same has come before us by way of circulation as per rules.

We have gone through the review application. By means of this application the applicant has raised points which were raised at the stage of hearing on admission. The points raised by the applicant in the present review application have already been dealt with in the order rejecting the application. It appears that the applicant desires re-appraisal of the facts and law already taken into account. We may point out that the purpose of review is not to correct the judgment. If we have erred, law provides a course to the applicant. The purpose of review is ~~not for~~ ^{never} reassessment of the evidence on record. A review of an order can only be made for correction of a patent error of fact or law which stares one in the face without any elaborate arguments being needed for establishing it. Thus the scope for reviewing an order is limited.

D.K. Agrawal

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3. Since there is no patent error of fact or law in the order passed on 15.10.1950, the review application, in our opinion, is liable to be rejected and is accordingly rejected.

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MEMBER (J).

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MEMBER (A).

Dated: January 28, 1951.

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