

CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

Original Application No: 803/92

~~Transfer Application No:~~

DATE OF DECISION 19.1.1993

Shri D.Gokul Chand Petitioner

Shri A.D.Poojary Advocate for the Petitioners

• Versus

Union of India & Ors. Respondent

Shri R.K.Shetty

Advocate for the Respondent(s)

CORAM:

The Hon'ble Shri Justice S.K.Dhaon, Vice Chairman

The Hon'ble Shri

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 ?

S.K.Dhaon
(S.K.Dhaon)
Vice Chairman

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BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH, BOMBAY

DA. NO. 803/92

Shri D. Gokul Chand
V/S.

... Applicant

Union of India & Ors.

... Respondents

CORAM: Hon'ble Vice Chairman Shri Justice S.K.Dhaon

Appearance

Shri A.D.Poojary
Advocate
for the Applicant

Shri R.K.Shetty
Advocate
for the Respondents

ORAL JUDGEMENT

Dated: 19.1.1993

(PER: S.K.Dhaon, Vice Chairman)

The father of the applicant was employed as a Labour. He had been allotted Qr.No. U-23 of Naval Pool Quarter (hereinafter referred to as accommodation in question). He retired from service (MES) on 31.7.1988. The applicant, who is also a Labour in the MES, on 13.4.1989 made an application praying that the accommodation in question may be transferred to him on allotment basis. That application has been rejected. Hence this application under Section 19 of the Administrative Tribunal Act.

2. A reply has been filed on behalf of the respondents. Counsel for the parties have been heard.

3. It appears that on 6.3.1992 a meeting was held in the office of "Combrax" with the representative of the MES Employees Union. At that meeting, the Commodore, the other officers and the office bearers of the MES Employees Union were present and they participated in the proceedings. The request made by the Union to regularise the unauthorised occupancy of the accommodation in question by the applicant

was considered. It was explained that the relevant rules relied upon by the Union related to Government accommodation allotted from general pool/central pool only and the same had no application for Government quarter allotted out of the Naval pool. Combrax therefore impressed upon the Union to prevail upon the applicant to surrender the accommodation in question which had been allotted to his father out of the Naval Pool. The Union made a request that the applicant may be given time till 30.4.1992 for surrendering the accommodation in question and he may also be exempted from paying damages. Combrax agreed to grant time to the applicant to vacate the accommodation in question on or before 30.4.1992 and it was also clarified that the request for exemption from payment of damages will be considered after the applicant hands over the vacant possession of the accommodation in question on or before the aforesaid date.

4. It is clear that the accommodation in question cannot be allotted to the applicant as it belongs to the Naval Pool. Therefore, there is no infirmity in the decision of the Combrax refusing to regularise the occupation of the applicant. Inspite of the undertaking given by the Union on behalf of the applicant, the accommodation in question has not been vacated so far by the applicant. Shri Shetty states that after the decision of this application, the respondents will be obliged to take recourse of proceeding under the Public Premises Act and therein ^{they will} not only ~~be~~ seeks the ejectment of the applicant but also claims the damages from him.

5. The applicant is present in court and is represented by Shri Poojari, a learned counsel. The applicant and his learned counsel give an undertaking to this Tribunal that

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the applicant shall hand over peaceful possession of the accommodation in question to the respondents within a period of one month from today. If that is done, the respondents shall not initiate any proceedings ~~from~~ for realizing any damages from the applicant. However, the applicant shall be liable to pay the usual rent till the date on which he hands over possession of the accommodation in question to the respondents in pursuance of this order. I make it clear that if the applicant does not abide by the undertaking given by him, he may be subjected to contempt proceedings.

6. With these directions this application is disposed of finally but without any order as to costs.

S.K.
(S.K.DHAON)
VICE CHAIRMAN

mrj.

(9)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH, BOMBAY

C.P.No. 33/93

in

DA.NO. 803/92

Shri Rajiv Pilo
Commander, Chief Administrator,
Naval Area, Colaba, Navy Nagar,
Bombay

... Petitioner

V/S.

Shri D.Golkwal Chand,
Mazdoor C/O. Garrison Engineer,
(Naval Works) Colaba, Bombay.

... Contemner

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

Appearance

Ms.Kerban Anklesaria
Advocate
for the Contemner

Shri R.K.Shetty
Advocate
for the petitioner

Tribunal's Order

Dated: 14.7.1993

(PER: M.Y.Priolkar, Member (A))

Ms.Kerban Anklesaria, Advocate for the original applicant. Mr.R.K.Shetty is present on behalf of the respondents in the original application who have now filed this contempt petition for failure of the original applicant to vacate the quarter in question by the due date, namely, 19.2.93 which was stipulated in the judgement dated 19.1.1993 on the basis of the undertaking to that effect given by the applicant and his advocate to the Tribunal.

2. Ms.Anklesaria states that a review petition had since been filed on 28.3.1993 (R.P.No. 28/93) which is still to be decided by the Tribunal. She also states that the alleged contemner being an illiterate person serving as a Mazdoor was not aware of the undertaking given by him and that the earlier Advocate ^{who} represented him also failed to bring to the notice of the Tribunal on the date of hearing an important document, namely,

allotment letter dated 9.6.1983 in favour of the applicant's father in which clause 6 provided that :

"This allotment is on Temporary basis. You will be required to vacate this quarter as soon as an allotment in MES key personnel quarter/or an alternate quarter is allotted to you."

3. After hearing both the counsel, I do not find that any adequate justification is advanced for going back on the undertaking given by the applicant earlier to the Tribunal. The judgement was delivered on 19.1.1993. The sanctity of a solemn undertaking given to the Tribunal has to be maintained and the mere fact that a review petition has been filed, and that too long after the date of the vacation prescribed in the judgement, could not justify any leniency to be shown to the contemner. Any way in view of the learned counsel's statement that the applicant was illiterate, did not follow the proceedings of the court and the undertaking which he himself had given and that his earlier advocate also did not keep him fully aware of the proceedings, as a last chance I allow 15 days time to the applicant, i.e. till 29.7.1993 to vacate the quarter and hand over the possession of the quarter to the original respondents. The applicant shall be liable to pay usual rent till 29.7.1993. It is also made clear that if the applicant does not hand over the possession of the accommodation to the respondents even on that date, he will be subjected to payment of damage rent right from 19.2.1993 and he will also render himself liable to contempt proceedings.

4. With these directions Contempt Petition No. 33/93 is disposed of.

M.Y. Priolkar
(M.Y. PRIOLKAR)
MEMBER (A)

mrj.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH, BOMBAY

RA No. 28/93 in
Regn. No. OA 803/92

Date of decision: 29.7.93.

Sh.D.Golkwal Chand ... Petitioner

vs.

Union of India ... Respondents

CORAM:

THE HON'BLE MR. JUSTICE S.K. DHAON. VICE CHAIRMAN(J)

ORDER

The order dated 19.1.93 passed by me is the subject matter of this Review Application. The order was passed by me on merits. On compassionate grounds, I had recorded the undertaking of the petitioner who was present along with his counsel that if he hands over peaceful possession of the Government accommodation, the subject matter of the OA, to the respondents within one month from the date of the order, the respondents will desist from initiating any proceedings for realizing any damages from the petitioner.

2. I have gone through the contents of the Review Application and I am satisfied that no ground is made out for review ^{and} no error apparent on the face of the record is discernible in the order.

3. I am disposing of this Review Application by adopting the process of circulation which

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is permissible under the rules.

The RA is rejected.

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(S.K.DHAON)
VICE CHAIRMAN(J)

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CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

Review Petition No. 57/93

Original Application No. 803/92

Shri C.P. Pathan and another

...Applicants.

V/s.

Union of India and others.

...Respondents.

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

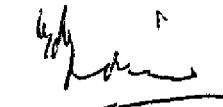
Tribunal's order on Review Petition by circulation.

(Per Shri M.Y.Priolkar, Member(A))

Dated: 19-8-1993.

This Review Petition has been filed by the applicant in O.A. No. 803/92 against orders of this Tribunal dated 19.1.1993 and 14.7.1993 by which O.A. No. 803/92 and the Contempt Petition (C.P. 33/93) ^{respectively,} therein, were disposed of with certain directions. This review petition has been circulated to me only for review as far as it relates to my order dated 14.7.1993 on the Contempt Petition. The only ground given in the Review Petition for seeking a review of this order on the Contempt Petition is at para 9 of the Review Petition wherein it is stated that this order is based solely on the alleged solemn undertaking given to the Tribunal by the applicant but that in fact no such undertaking was given by the applicant. In para 3 of my order dated 14.7.1993 of which a review is sought, I had stated that " I do not find that any adequate justification is advanced for going back on the ~~undertaking~~ given by the applicant earlier to the Tribunal". This was based on the Tribunal's judgement dated 19.1.1993, in para 5 of which it is stated that " the applicant (who is present in Court) and his learned counsel give an undertaking to this Tribunal that the applicant shall hand over peaceful possession of the accommodation in question to the respondents within a period of one month

from today". As long as this judgement dated 19.1.1993 stands, there is thus no error of fact or of law in my order dated 14.7.1993 on the Contempt Petition. No additional evidence is also produced by the applicant other than what was available on the date of the order dated 14.7.1993. I do not also find any other sufficient cause to warrant a review of the order dated 14.7.1993. The Review Petition is, accordingly, rejected as far as the review of the order dated 14.7.1993 is concerned.



(M.Y.Priolkar)
Member(A)

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