

(12)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH, 'GULESTAN' BUILDING NO.6
PRESCOT ROAD, BOMBAY-1

R.P. No. 32/94
in
O.A. No. 63/93

Union of India & Ors.

..Review Applicants
(Original
respondents)

v/s.

Smt. S.S. Asnotkar

..Respondent
(Original
Applicant)

Coram: Hon. Shri N.K. Verma, Member(A)

TRIBUNALS ORDER: (By Circulation)
(Per: N.K. Verma, Member[A])

Dated: 29.4.94

This is a Review Petition filed by the Original respondents in the O.A. No. 63/1993 under which the applicant's prayer for interim order in terms of para 9(a) of the O.A. "that pending the hearing and final disposal of this application respondents be directed to pay to the applicant pension payable and admissible to her, D.C.R.G., cash equivalent of E.L. and G.P.F. standing to the credit of the applicant on the date of her superannuation and (b) that pending hearing and final disposal of this application respondents be restrained by order and injunction from making any recoveries from the applicant towards the alleged penal rent for the occupation by the applicant of the quarter upto March 1991. ".

N.K.Verma

2. While admitting the O.A. under Tribunal's order on 3.12.1993 an interim relief was granted by directing the respondents to pay all the terminal dues including DCRG with interest @ 12% within one month

of the passing of the order and it was also said therein that no deduction should be made from the DCRG for payment of liability of rents of Government occupation. The respondents were given the liberty of proceeding against the employee/applicant under the Public Premises Eviction of Unauthorised Occupants Act, 1971.

3. The Review Petition is filed by the present applicants (original respondents) after a delay of 48 days and has prayed for condonation of delay in filing the Review Petition and stay the operation of the interim order dated 3.12.93 till disposal of this Review Petition and O.A. Review the interim order dated 3.12.93 and quash the same and permit the review petitioner to recover the arrears of compensation and market rate of compensation for the quarter No. 2546, 3rd floor, sector 6, Koliwada, Bombay 400037 from the DCRG due from pension in suitable instalment, re-hear the entire matter including the original application and pass other order as this Hon'ble Tribunal deems appropriate having regard to the facts and circumstances of the case.

4. This review petition is against an interlocutory order for grant of stay of our order dated 3.12.1993 for payment of terminal benefits with the further direction not to make any deduction from the DCRG in regard to the rental from the original applicant of the government accommodation.

N.H.W

5. The interim stay or ~~an~~ an order is a matter of judicial discretion against which no review petition by the same court is permissible under the law. The applicants in this review petition have not indicated as to the law under which the review petition has been made. The interim order was issued in the open Court after hearing the learned counsel for the applicant and the learned counsel for the respondents. The Original Application is still to be heard and decided upon. The issue raised in the review petition can be brought to the notice of the Bench at the time of final hearing of the matter. As admitted by the applicants in this review petition the Director of Estates has not been made a party to the O.A. and hence the direction of not recovering the rental cannot be enforced because of this omission on the part of the original applicant. If that be so, it is all the more necessary for the present applicants and the original respondents not to make any recoveries of rent from the DCRG of the original applicant. The status of the original applicant vis-a-vis the Director of Estates is that of a ~~Land~~ ^{Licensee} ~~Lord~~ and ~~Tenant~~ ⁱⁿ ~~the~~ and under the existing rules of the Public Premises Eviction of Unauthorised Occupants Act 1971, the Government has been authorised to take appropriate action in regard to the recovery of ~~rent~~ ^{damages} etc., or even eviction. Since the Director of Estates is not a party in this O.A. and our directions have not been given to the Director of Estates, the respondents

N.H.W

(present review applicants) are clearly barred from making any recoveries from the DCRG of the original applicant till the matter about her unauthorised occupation etc., is adjudicated.

6. Instead of this Tribunal order^h the original applicant to implead the Director of Estates as a party respondent, it would be open to the Director of Estates to join in this litigation as an intervenor at this stage so that no undue prejudice or disadvantage is caused to that party.
7. The Review Petition is rejected with the above directions.

N.K. Verma
(N.K. Verma)
Member (A)