

(5)

CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

Original Application No: 506/94

Transfer Application No:

30.11.1994
DATE OF DECISION:

Sh B.C.Pathan.

Petitioner

Shri D.V.Gangal.

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 M.S.Deshpande, Vice-Chairman,

The Hon'ble Shri

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

(M.S.DESHPANDE)
VICE-CHAIRMAN

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH, BOMBAY.

Original Application No.506/94.

B.C.Pathan.

... Applicant.

V/s.

Union of India & Ors.

... Respondents.

Coram: Hon'ble Shri Justice M.S.Deshpande, Vice-Chairman.

Appearances:-

Applicant by Shri D.V.Gangal.
 Respondents by Shri R.K.Shetty.

Oral Judgment :-

(Per Shri M.S.Deshpande, Vice-Chairman) Dt. 30.11.1994.

By this application, the applicant challenges the recovery of penal rent without recourse to the provisions of Section 7 of the Public Premises Eviction Act pursuant to the order dt. 18.9.1993.

2. The applicant was allotted the quarters in question on 29.12.1992. On 17.9.1993 a communication (Ex. A-4) was sent by the applicant and S.K.Mehta informing the Respondents that they would be sharing accommodation if permitted, both being government servants. On 18.9.1993 the Respondents issued a show cause notice informing the applicant that he had sublet the premises to S.K.Mehta and calling upon him to give his reply within three days of the receipt of the letter failing which the applicant would be liable for eviction / cancellation of the quarters under Public Premises (Eviction of Unauthorised Occupation) Act, 1971. The applicant sent a reply on 27.9.1993 informing the respondents that till 18.9.1993 S.K.Mehta had not come to reside in the quarters and that an application has been sent on

17.9.1993 through the Head of the Section to the General Manager of the intention to accommodate S.K.Mehta. The applicant requested that the notice dt. 18.9.1993 should be withdrawn. Since that was not withdrawn the applicant has approached this Tribunal for the aforesaid relief. The question that arises for consideration is whether prior intimation had been given by the applicant and Mehta, before Mehta occupied the quarters and according to the notice dt. 18.9.1993 allegation was that Mehta had been occupying the quarters for 5 months prior to the issuance of the notice. A reference was made to the order dt.17.2.1994 by which the HRA of Mehta was stopped w.e.f. 29.10.93, but that letter does not spell out the period from which Mehta had been in occupation. It is clear that there is a disputed question of fact and that can be resolved only by an authority which is competent to do so i.e. the authority under the Public Premises (Eviction of Unauthorised Occupants) Act, 1971. The notice dt. 18.9.1993 only says that the proceedings will be taken under that Act. In the circumstances, no relief can be granted to the applicant. If the Respondents want to avail of the legal remedies available to them, the only direction would be that penal rent shall not be recovered until a suitable order has been obtained from the authority that normal rent shall be paid subject to the decision of that authority. With this observation the OA is dismissed.


(M.S. DESHPANDE)
VICE-CHAIRMAN

138/310

CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH.

C.P. No. 26/95 IN
C.A. No. 506/94/336869

6-4-95
Date 336869

Mr. B.C. Pathan

... Applicant.

The U.C.I. & Ors. (B.K. Sarma & Anr.)

... Respondents.

CORAM: HON'BLE JUSTICE SHRI M.S. DESHPANDE, V.C.

HON'BLE SHRI P.P. SRIVASTAVA, MEMBER (A).

TRIBUNAL'S ORDER:

DT: 27/3/95.

Applicant by Shri D.V. Gangal. Respondent by
Shri R.K. Shetty.

If any amount has been recovered in excess of normal
rent after 30/11/94 that amount will be refunded to the
applicant, within 2 months and that only normal rent is to be
charged unless in pursuance of liberty up 7 of the public
premises. In view of this direction, the C.P. is disposed of.



Copy to:-

Mr. B.C. Pathan,
C/O. Mr. D.V. Gangal, Adv.

Certified True Copy
Date 27/3/95

2. The Union of India & Ors.,
through Mr. R.K. Shetty, Adv.

Section Officer
Central Admin. Tribunal,
Bombay Bench.

6/4/95 SECTION OFFICER.

Despatched on..... 6-4-95

W
Despatched

6-4-95