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CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

Original Application No: 1245/95

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DATE OF DECISION: 6/12/95

Shri S.R. Thakur

Petitioner

Shri Y.R. Singh

Advocate for the Petitioners

Versus

Union of India & Ors.

Respondent

Shri V.S. Masurkar

Advocate for the Respondent(s)

CORAM :

The Hon'ble Shri B.S. Hegde, Member (J)

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?


(B.S. Hegde)
Member (J)

ssp.

(6)

BEFORE CENTRAL ADMINISTRATIVE TRIBUNAL

BOMBAY BENCH

O.A. No. 1245/95

Dated this 6th day of December 1995.

Hon'ble Shri B.S. Hegde, Member (J)

Shri S.R. Thakur Applicant

By Shri Y.R. Singh,
counsel for the Applicant.

v/s

Union of India & Ors. Respondents

By Shri V.S. Masurkar,
Central Govt. Standing Counsel

O R D E R

(Per: Shri B.S. Hegde, Member (J))

1. Heard Shri Y.R. Singh, counsel for the Applicant and Shri V.S. Masurkar, counsel for the Respondents. The Applicant has obtained ex parte order on 12-10-1995 stating that the Applicant is in occupation of the quarter no. T/97/1, SPDC Colony, Mankhurd since 1982 and it is stated by him at that time that he sent letter to the Respondents vide dated 17-11-1994 to deduct HRA and the Respondents have deducted HRA from August 1995; despite the same, the Respondents issued eviction order for vacation of the quarter which expired on 4-10-1995. However, through Union, he was allowed to continue in the quarter. Accordingly, the Applicant prayed for interim order in terms of prayer 9 (a) for a period of 14 days. The Respondents filed their reply on 15-11-1995.

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2. The learned counsel for the Respondents made a statement on 27-10-1995 that the Applicant has been occupying the quarter since 1992 in lieu of one Zopada which land was acquired by the Respondents. He however, stated that no allotment order was issued for the accommodation in which he is occupying at present and the quarter which the Applicant is in occupation is unfit for human habitation and has been earmarked for demolition and seeks for vacation of the interim order and dismissal of the O.A. itself.

3. After hearing the learned counsel for the parties and on perusal of the documents, it is made out that there is no allotment order issued by the Respondents and the quarter in question is a barrack type - a temporary construction and is in a dilapidated condition and no allotment is made to any one after 1990 by the Respondents. In fact, the Flag Officer is the authorised allotting authority and he has filed an affidavit that he has not allotted any quarter to any one in that locality. The Applicant filed an allotment order dated 24th February 1994 which is entirely different colony not concerning with the type of accommodation in which the Applicant is occupying. Even for allotment of accommodation, there should be an application by the Applicant. It is on record to say that the Applicant has not made any application for allotment; even though he is in occupation from 1992 onwards,

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From pre-page:

he has not made any request to the authorities for deduction of HRA but only on 17-11-1994 he has written a letter to the Respondents to deduct HRA from his salary which clearly shows the conduct of the Applicant that his occupation in the quarter is not authorised one and no allotment is made by the Respondents to the Applicant. Therefore, in absence of any allotment order, the action taken by the Respondents cannot be treated as unauthorised one and is in accordance with the procedure prevalent in vogue. Further, it is made amply clear by their order dated 18-9-1995 that he has been given sufficient opportunity to establish his bonafides in continuing in the quarters. Despite the same, he did not avail of the same; thereby he cannot say that he has not been given any opportunity to rebut the charge. In the result, I do not find any infirmity in the order passed by the Respondents vide dated 18-9-1995 (Annexure 'A') as well as 31-5-1995 (Annexure 'B') - both are in order. Accordingly, I do not find any merit in the O.A. and the same is dismissed at the admission stage but with no order as to costs.

4. Since the Applicant is in unauthorised occupation, it is open to the Respondents to take action as they deem fit.


(B.S. Hegde)
Member (J)