

CENTRAL ADMINISTRATIVE TRIBUNAL
BENCH AT MUMBAI

ORIGINAL APPLICATION No. 1449/95 / ~~1000~~

Date of Decision: 26-09-96

V.S. Shrivastav.

Petitioner/s

Shri Suresh Kumar.

Advocate for the
Petitioner/s

V/s.

Union of India & Ors.

Respondent/s

Shri R.K. Shetty.

Advocate for the
Respondent/s

CORAM:

Hon'ble Shri **M.R. Kolhatkar, Member(A).**

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.R. Kolhatkar

(M.R. KOLHATKAR)
MEMBER (A).

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
MUMBAI BENCH.

Original Application No.1449/95.

Coram: Hon'ble Shri M.R.Kolhatkar, Member(A).

Rescinded, this the 26th day of September 1996.

V.S.Shrivastav,
52-C Adi-Shankarcharya Marg,
Powai, P.O. Sakinaka,
Bombay - 400 072.

... Applicant.

(By Advocate Shri Suresh Kumar)

V/s.

1. Union of India through
Secretary,
Ministry of Labour,
Shramshakthi Bhavan,
Raffi Marg,
New Delhi - 110 001.

2. Head of the Department and
Deputy Director General
Directorate General Factory,
Advise Service and Labour
Institute, CLI Bldg.,
Sion,
Bombay - 400 022.

3. Shri S.K.Saxena,
Head of the Department,
DGFASLI N.S.Mankikar Marg,
Sion,
Bombay - 400 022.

... Respondents.

(By Advocate Shri R.K.Shetty).

O R D E R

{Per Shri M.R.Kolhatkar, Member(A)}

In this O.A. the applicant has challenged the order dt. 27.9.1994, at Ex.'A', Page 13, being an order under Section 7 (2) of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 by which the applicant has been ordered to pay a sum of Rs.6,873.60 as damage rent on account of unauthorised occupation of the Government premises being residential accommodation allotted to the applicant while working

in Bombay for the period 27.6.1994 to 31.8.1994 and also further ordering him to continue to pay the damages at the rate of Rs.3,222/- per month until vacation of the premises. It is not in dispute that the applicant who was working as Deputy Director (Staff Training) in the Directorate General Factory Advice Service and Labour Institute was transferred to Regional Labour Institute, Calcutta. The applicant had challenged the transfer order vide O.A. No.798/93 and the same was dismissed vide ^{Tribunal's} order dt. 20.4.1994. The applicant was thereafter expected to join at Calcutta. However, the applicant had made a representation, vide page 13A, that he has applied for leave and that he may be condoned the damage charges for the entire leave period. There is further correspondence in the matter, but, I need not go into it, except to observe that the applicant actually joined at Calcutta on 7.12.1994 and that the applicant was evicted from the Quarters on 13.6.1995.

2. It may be noted that the allotment of quarters and related provisions in respect of the applicant are governed by a set of separate Rules issued on 9.8.1973 called "Allotment of Government residences under the administrative control of the Directorate General of Factory Advice Service and Labour Institutes Rules, 1973." The applicant has raised several grounds including competence of the Estate Officer. But in the light of the reply filed by the Respondents enclosing inter alia a copy of the order dt. 4.9.1981

providing for delegation of powers, ~~the~~ counsel for the applicant at the argument stage rested his case mainly on ~~three~~ one grounds. The first ground is that after the Tribunal had rejected his O.A. he had applied for medical leave and that under the relevant rules a government employee is entitled to continue to occupy the Government Quarters for the full period of medical leave. In this connection, the applicant relies on page 206 of Swamy's Compilation of F.R.S.R. 1994 edition in which there is a table which specifies the events and the permissible period for retention of residence and so far as the event of leave on medical grounds which is Sl.No.(xii) is concerned the permissible period for retention is shown to be the full period of leave.

3. Apart from the fact that this reference is ~~is~~ contained in D.G. P & T's instructions which do not apply to the post under Labour Ministry held by the applicant, it is to be noted that the applicant has not filed any order sanctioning leave on medical grounds to him. It appears that the applicant was directed by the Department to report at Calcutta and the application was also forwarded to Calcutta Office vide letter dt. 16.8.1993 (at Annexure R-4). It is also pointed out that in terms of Government of India, Ministry of Finance, O.M. No.F.7 (31)-Est.IV/60, dt. 8th September, 1960, in cases where the leave is applied for by a Government servant during the period of

transit from one Central Civil Department to another such Department, the leave should be sanctioned by the Department where he has to report for duty and the Department should also make suitable administrative arrangements incumbent on the sanctioning of leave.

The applicant, however, did not comply with the instructions, in any case, immediately and there is no ^{on record} order/sanctioning his leave. ~~which has been sanctioned~~

The reliance placed by the applicant on his entitlement to retain quarters for the full period of medical leave, therefore, cannot be accepted.

4. The counsel for the applicant, next relies on para 4.15 of his O.A. where it is stated that the wife of the applicant is a Government employee and since the applicant was allotted accommodation she did not opt for accommodation from her employer and the respondents ought to have considered this circumstance and waited for a reasonable period till the wife of the applicant was allotted accommodation by her employers.

5. Although respondents have not directly given a reply to this aspect of the matter, I note that the applicant had not raised this point in any of his representations made to the respondents and the Respondents in the written statement have stated that the applicant in fact does not deserve any sympathy in view of the fact that the family owns two flats in Bombay one in applicant's name at Vasai and another in his wife's name at Ghatkopar (vide page 14) of the written statement. I, therefore, do not find

any substance in this ground also. The applicant next states that in terms of Rule 8 of Public Premises (Eviction of Unauthorised Occupants) Act, 1971 the assessment of damages cannot be done in a mechanical manner (as) has been done by the Respondents, but several circumstance are required to be taken into account including the rent that would have been realised if the premises had been let on rent for the period of unauthorised occupation to a private person vide Government of India's Order No.12 under F.R. 45-A extracted at page 199 of Swamy's compilation of F.R.S.R. referred to above. On this point the respondents state that the rate at which damage rent is to be calculated has been laid down by the Government vide Director of Estate O.M. dt. 31.3.1993 (at Annexure R-12 to the written statement), I have considered the same and I do not think that the Government Orders are in violation of Rule 8 of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 referred to by the applicant. I am, therefore, not impressed by the grounds urged by the applicant. On a consideration of all facts and circumstances, I am of the view that the O.A. has no merit and the same is therefore dismissed with no order as to costs.

M.R. Kolhatkar

(M.R. KOLHATKAR)
MEMBER (A)

B.