

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

MUMBAI BENCH

ORIGINAL APPLICATION NO: 1013/95

Date of Decision: 12.1.1999

D.G.Advani

.. Applicant

Shri G.S.Walia

.. Advocate for
Applicant

-versus-

Union of India and others.

.. Respondent(s)

Shri V.S.Masurkar.

.. Advocate for
Respondent(s)


CORAM:

The Hon'ble Shri Justice R.G.Vaidyanatha, Vice Chairman

The Hon'ble Shri L.S. Baweja, Member (A)

(1) To be referred to the Reporter or not ?

(2) Whether it needs to be circulated to
other Benches of the Tribunal ?


(R.G. Vaidyanatha)
Vice Chairman

NS

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

Original Application No. 1013/95

Tuesday the 12th day of January 1999

CORAM: Hon'ble Shri Justice R.G.Vaidyanatha, Vice Chairman
Hon'ble Shri D.S. Baweja, Member (A)

D.G. Advani
C/o G.S.Walia
Advocate High Court
16, Manarashtra Bhavan,
Fort Bombay,

... Applicant.

By Advocate Shri G.S.Walia.

V/s.

Union of India through
General Manager,
Western Railway
Churchgate
Bombay.

Financial Advisor and
Chief Accounts Officer,
Western Railway
Head Quarters officer
Churchgate,
Bombay.

Dy. General Manager
Western Railway
Head Quarters Office
Churchgate
Bombay.

Chief Manager
State Bank of India
Khar (W) Branch
S.V. Road, Khar
Bombay.

... Respondents

By Advocate Shri V.S.Masurkar.

ORDER (ORAL)

¶ Per Shri Justice R.G.Vaidyanatha, Vice Chairman (

This is an application filed by the applicant under Section 19 of the Administrative Tribunals Act 1985. The respondents have filed reply. The respondents have also filed M.F. 25/99 for early hearing. After hearing both the sides, the M.F. is allowed. The O.A. is taken up for final hearing. Heard counsel for both sides on merits.

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2. In this application, the applicant is challenging the claim of the respondents for damage rent on the ground that the respondents cannot recover the amount unless they have recourse to the provisions under Section 7 of the Public Premises (Eviction of Unauthorised Occupants) Act 1971. The applicant has also stated that he is entitled to post retirement passes since he has already vacated the quarter.

3. AS far as the first ground of attack regarding the penal rent is concerned, we are not going into the correctness of the claim since the respondents have themselves admittedly initiated proceedings and passed an order under Section 7 of the P.P. Act. It is open to the respondents to take further action in pursuance of the order to recover whatever amount is due to the applicant. It is also open to the applicant, if so advised, to challenge that order before appropriate forum according to law.

4. As far as the claim of the applicant for post retirement passes are concerned, since the applicant has already vacated the quarter, he is entitled to get post retirement passes as observed by the Full Bench of this Tribunal in Vazir Chand's case reported in 1989-91 Full Bench of CAT 287.

5. In the result the application is disposed of as follows:

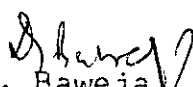
1. The respondents are free to take whatever action to recover the penal rent from the applicant under Section 7 of the P.P. Act


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2. The respondents are directed to release post retirement passes from 1999 onwards as per rules, as and when the applicant makes a request on this behalf.
3. In the circumstances of the case there will be no order as to costs.


(D.S. Baweja)
Member (A)


(R.G. Vaidyanatha)
Vice Chairman

NS