

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH

Original Application No: 159/98.

Date of Decision: 02.04.1998.

Indrapal Singh,

Applicant.

Shri Utpal Rudra,

Advocate for
Applicant.

Versus

Union Of India & Anr.,

Respondent(s)

Shri S. S. Karkera for
Shri P. M. Pradhan,

Advocate for
Respondent(s)

CORAM:

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

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

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

R. G. Vaidyanatha
(R. G. VAIDYANATHA)
VICE-CHAIRMAN.

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CENTRAL ADMINISTRATIVE TRIBUNAL

MUMBAI BENCH

ORIGINAL APPLICATION NO.: 159/98.

Dated this Thursday, the 2nd day of April, 1998.

CORAM : Hon'ble Shri Justice R. G. Vaidyanatha,
Vice-Chairman.

Indrapal Singh,
Residing at -
8/97/4, Defence Project
Ambajhari, Nagpur - 21.

... Applicant

(By Advocate Shri U. Rudra)

VERSUS

1. Union Of India through
The Director General,
Ordnance Factories,
Shahid Khudiram Bose Road,
Calcutta - 700 001.
2. The General Manager,
Ordnance Factory Ambajhari,
Nagpur - 21.

... Respondents.

(By Advocate Shri S.S. Karkera
for Shri P. M. Pradhan)

: OPEN COURT ORDER :

¶ PER.: SHRI R. G. VAIDYANATHA, VICE-CHAIRMAN ¶

In this application the applicant is challenging the order of termination of tenancy as per order dated 03.01.1998. The respondents have filed reply. I have heard Shri Utpal Rudra, the Learned Counsel for the applicant and Shri S.S. Karkera on behalf of Shri P.M. Pradhan, Learned Counsel for the respondents.

2. The applicant is an employee in the Ordnance Factory at Ambajhari, Nagpur. He is residing in Quarter No. 8/97/4 in the Defence Project of

Ambajhari, Nagpur. Due to some allegations of the applicant's son misbehaving with one girl, the respondents terminated the allotment of the quarter to the applicant by a previous order dated 12.02.1997. That order came to be challenged by the applicant before this Tribunal in O.A. No. 303/97. The Learned Single Member of this Bench by order dated 27.03.1997 quashed that order giving liberty to the respondents to issue a show cause notice to the applicant and then pass appropriate orders as per rules. After that order, the respondents issued a show cause notice to the applicant dated 17.07.1997 followed by another letter dated 22.12.1997. The applicant gave a reply on 24.07.1997 and second reply on 29.12.1997. Then the respondents have passed the impugned order dated 03.01.1998. Being aggrieved by this order, the applicant has approached this Tribunal. The applicant is challenging the correctness, legality and validity of the order dated 03.01.1998.

3. Respondents have filed reply pleading all the circumstances under which the show cause notice was issued and the impugned order came to be passed. Respondents have justified the order dated 03.01.1998.

4. After hearing both the sides, I feel that the application should succeed on a short ground.

In the present case, the respondents are alleging that the applicant is liable to vacate the

quarter on the ground of some misconduct on the part of applicant's son with a girl in that locality. This Tribunal gave a direction in the previous order to the respondents to apply the principles of natural justice by issuing show cause notice. No doubt, the respondents did issue ~~two~~ show cause notice to the applicant but the impugned order which is at page 27 of the Paper Book, does not give us any indication of application of mind by the competent authority. As rightly argued by the Learned Counsel for the applicant, the order at page 7 of the Paper Book is a printed form order or a cyclostyled order with relevant columns being filled up. The object of giving show cause notice is ^{they} the party to be affected, should give a reply and the competent authority must consider the reply and then pass appropriate orders as per rules. But since the order is prepared on a proforma type printed form, it does not give any indication about the application of mind by the competent authority. The order should have indicated as to what was the allegation against the applicant for the purpose of cancellation, what was the nature of his reply and whether the competent authority is satisfied ^{with} the reply given by the applicant and whether the allegations are sufficient to cancell the allotment of quarter. We do not get any indication in the impugned order on these aspects. The mere issuing of a cyclo-styled order or printed order will not serve the principles of natural justice. The very object of principles of

natural justice is that the affected party should be given an opportunity to give explanation and the competent authority must consider the explanation and then pass appropriate orders as per rules. The impugned order does not satisfy these requirements. It purports to be an arbitrary order without giving any reasons. It exhibits non-application of mind by the concerned authorities. Hence for these reasons, my finding is that the impugned order is not sustainable and is liable to be quashed.

5. Nodoubt, the respondents have taken the stand that allotment of quarters has to be cancelled due to involvement of applicant's son in a criminal case. The respondents have already issued a show cause notice and the applicant has already given a reply, but in the interest of justice I feel that the applicant should be given liberty to file a detailed representation within two weeks from today. Then, the competent authority shall apply its mind to the entire facts of this case, including the allegations against the applicant and his reply and then apply its mind to the relevant facts and then take a decision one way or other as per rules, by writing a speaking order. If after such an order is passed and the applicant is aggrieved by the said order, it is always open to him to challenge the same according to law.

6. In the result, the O.A. is allowed. The impugned order dated 03.01.1998 is hereby quashed.

: 5 :

I hereby give liberty to the applicant to send a fresh reply/representation to the two show cause notices within two weeks from today. Then the respondents may pass appropriate orders according to law by a speaking order in the light of the observations made in the course of order. In the circumstances of the case, there will be no order as to costs.

R. Vaidyanatha
(R. G. VAIDYANATHA)
VICE-CHAIRMAN.

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