

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH: AT
HYDERABAD

(18)

TRANSFERRED/ORIGINAL APPLICATION NO. 379/89

DATE OF ORDER:

BETWEEN:

A. Samba Siva Rao

APPLICANT(S)

*The station officer, Andhra
Sub Area, Bolarum, Secunderabad
and another*

RESPONDENT(S)

FOR APPLICANT(S): *Sr. Rama Mohan Rao*

FOR RESPONDENT(S): *Sr. P. Ramakrishna Reddy,
Senior Standing Counsel for
Central govt.*

CORAM: *Hon'ble Sr. J. Venkatesh Reddy, member (J),
(Single Bench)*

1. Whether Reporters of local papers may be allowed to see the Judgment?
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of the Judgment?
4. Whether it needs to be circulated to other Bench^{es} of the Tribunal?
5. Remarks of Vice-Chairman on columns 1, 2, 4 (to be submitted to Hon'ble Vice-Chairman where he is not on the Bench)

ms

[Signature]

*J. V. M.
M(J)*

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, HYDERABAD BENCH.

O.A.No.379 of 1989.✓

Between:

A. Samba Siva Rao. Applicant.✓

Vs.

The Station Staff Officer, Andhra Sub Area,
Bolarum, Secunderabad and another.

Respondents✓

Sri N.Ram Mohan Rao, Counsel for the applicant✓

Sri P.Ramakrishna Raju, Senior Standing Counsel
for Central Government.✓

Judgment of Single Member Bench pronounced
by Hon'ble Sri J.Narasimhamurthy,
Member(Judicial).✓

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This application is filed seeking a direction to
the respondents not to evict the applicant and his
other dependents from the premises No. 2--16--52(22/19 & 20)
Sappers Lines, Secunderabad.

2.The averments in the application briefly stated
are as follows:

2. The applicant was initially recruited as a Mazdoor
in the Office of the Garrison Engineer(South)Secunderabad
and he was allotted during the year 1982 Quarter No.2-16-52(22/19
and 20) Sappers Lines, Secunderabad. Later he was reclassified
as L.D.C., and was posted to the Unit of the 2nd respondent.
He was working on a regular basis as L.D.C., Employees
working under the 2nd respondent are required to take up
tenure assignments elsewhere. The tenure assignments are
assigned to a batch of employees and on their return to the
parent unit, another batch is deputed. The Applicant,
A. Sambasiva Rao was assigned tenure duties from April, 1988

in the office of Garrison Engineer(P) Sonabada, Koraput District, Orissa where he joined on 18--4--1988. The tenure of assignment is for a period of 2 years. During the period his dependants i.e., the widowed mother, another mentally retarded dependant brother and his wife have been living in the said accommodation. Rent payable for this accommodation is being deducted regularly from the salaries payable to the applicant. After the tenure assignment is completed the applicant will be restored to the Unit of the 2nd respondent. Several representations have been put in to the 1st respondent for retention of the quarter. There does not appear to be any response from him. On the other hand an order declaring that the premises has been unauthorisedly occupied by the dependants of the applicant has been firmly pasted on the door and sought to forcibly evict the dependants of the applicant from the premises. Hence this application to declare the action of the 1st respondent in seeking the eviction of the applicant in the unit of the 2nd respondent during his tenure assignment to the unit of Garrison Engineer(P) Sonabada, Koraput District, Orissa State from the premises 2--16--52(22/19&20) Sappers Lines, Secunderabad is illegal and arbitrary and unsustainable and to direct the 1st respondent to refrain him from evicting the applicant and his other dependents from the above said premises.

3. The respondents filed their counter contending as follows:

The Quarter No.22/19 & 20 located at Sappers Lines, Secunderabad was originally allotted to Late Shri A. Santharama Murthy, L.D.C., who died on 17th April, 1970 while in service. Consequent on his death, his son

Shri A. Sambasiwa Rao was appointed on 1-2-1972 as a Mazdoor in the office of the Garrison Engineer (South), Secunderabad under compassionate employment assistance scheme by relaxation of the provisions relating to recruitment procedure. The quarter was allotted to the applicant and he is in occupation of the same. The licence fee was collected from him at the prevailing market rate. On his transfer back to Garrison Engineer (South), Secunderabad during September, 1980 he requested for re-allotment of the quarter. The request was acceded to and orders reallothing the quarter were issued vide letter No.118/550 dated 3rd July, 1981 of the Station Headquarters, Secunderabad.

4 Later the applicant was transferred to the Office of the Garrison Engineer (Project) (I) R&B Chandrayanagutta with effect from 1-3-1984 on his selection for appointment as L.D.C. The applicant was subsequently posted to the office of the Garrison Engineer (Project) Sunabeda, Orissa State on tenure basis.

5 The individual has not vacated the quarter consequent on his relief from the Garrison Engineer (South) Secunderabad for rejoining as L.D.C., in the office of Garrison Engineer (P) (I) R&B Chandrayanagutta and he is continuing in occupation of the quarter unauthorisedly. The applicant has requested for permission to retain the above quarter on the grounds that his brother is sick. The respondents have intimated to him that there is no provision in the rules to accord permission in such cases and the applicant was accordingly instructed to vacat the quarter by 5th of July, 1988.

The applicant submitted another representation dated 27th July, 1988 seeking permission to retain the quarter for a period of 2 years i.e., from 16--4--1988 to 15--4--1990 on payment of licence fee at the market rate. The respondents informed him ^{by} letter dated 30-8-1988 that the above quarter is required for allotment to the Civilians of the Unit. Accordingly, the individual was asked to vacate the quarter by 15th September, 1988 failing which it was made clear that besides being liable to pay licence fee at the present market rate, eviction proceedings will be initiated against him in terms of para 2(i)(b) of the Army Headquarters letter No. 42760/Q3(EI) dated 31--1--1986.

6. The applicant has not vacated the quarter so far and his mother Smt. A. Savithri has submitted an appeal ~~xx~~ dated 30--9--1988 to the Hon'ble Prime Minister of India. Even after this he was asked to vacate but he has not vacated. It is not possible ~~x~~ to say at this stage that he will be posted back to ~~xx~~ Secunderabad Station. Even if he is posted at Secunderabad Station, he has to seek fresh allotment of the quarter and cannot retain the present quarter as a matter of course.

7. As the applicant failed to vacate the quarter, the eviction proceedings were initiated. There are no merits in the petition either on the facts or in law warranting any interference in this application and it has to be dismissed.

8. Headd both parties.

9. It is an admitted fact that the applicant is working under the Respondent. Prior to the applicant his father worked under the respondents and after his death the applicant entered into the Department as Mazdoor and after working for sometime he was re-classified as L.D.C., and the present quarter was allotted to him at Secunderabad. He was ~~assigned~~ assigned tenure duties from April 1988 in the office of Garrison Engineer(P) Sonabeda, Koraput District, Orissa State. He was on duty under the respondent. His old mother, ~~and his wife~~ his mentally retarded, dependent brother and his wife were living in the said accommodation. Because of the Medical facilities they are getting ^{on} at Secunderabad, the applicant wants to retain them at Secunderabad. But the respondents ~~were~~ ~~xxxx~~ ~~xxxxx~~ brought on the applicant and his dependents pressure to get the house vacated and finally they affixed the notice to the door of the said quarter. The applicant was working at Sonabeda as he was transferred to that place on a tenure assignment. The licence fee is being recovered regularly from his salary. The applicant was transferred to a far of place where there are no proper medical facilities and proper accommodation to his dependent mother, retarded brother and his wife. He kept them at Secunderabad for ^{the} medical facilities and for proper treatment. He is only a Lower Division Clerk with meagre salary and will not be in a position to get the medical facilities and proper accommodation.

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The applicant was working at Sonabeda on a tenure assignment under the 2nd respondent Unit and continued ~~as such~~ to be a member of the said Unit. Because it is a tenure assignment, it may not come under a regular transfer because immediately after the tenure is over, he has to come back. Therefore, he is eligible for all benefits.

Before initiating eviction proceedings, the respondents might have considered the circumstances and family position of the applicant more sympathetically and allow his dependents to continue in the said quarter till the tenure period is over and brought him back immediately after the tenure assignment so that he would be in a position to occupy the same quarter.

Moreover, the steps taken by the respondents are not in accordance with law. No notice is given to the applicant at least before they resort to ~~xx x~~ get them vacated forcibly. The applicant made number of representations. The respondents ought to have considered the representations of the applicant and his mother more sympathetically.

If at all, the respondents come to the conclusion, the the applicant is to be ~~evicted~~ from the quarter, they ought to have taken action under the provisions of Eviction of Unauthorised Occupants of Public Premises Act and the Procedure prescribed therein.

To:

1. The Station Staff officer, Andhra Sub Area,
Bolaram, Secunderabad.
2. The Garrison Engineer(P) (I), Military Engineering
Service R & D, Chandrayanagutta, Hyderabad.
3. One copy to Mr. N.Ram Mohan Rao, Advocate, 714 'B'
Block Brundawan Apartments, Red Hills, Hyderabad-4.
4. One copy to Mr.P.Ramakrishna Raju, Sr.CGSC, CAT, Hyderabad.
5. One spare copy.

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ANC
Received on 26/2/90
at 15:30 hrs
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(23)

The applicant is paying rentals regularly. He is in lawful occupation of the premises by paying the rentals regularly. The respondents did not give any notice before taking steps to evict the ~~dependents~~ ^{dependents of} the applicant from the premises. So the action taken by the respondents is not in accordance with law.

The tenure assignment is only for 2 years. He joined on 18-4-1988 at Sonabeda. His tenure assignment is being expired by April, 1990. The respondents may bring back the applicant after his tenure assignment is over. After his coming back, the respondents may allow him to continue in the same quarter or allot a fresh quarter.

In the circumstances of the case, applying the principles of natural justice, the respondents are directed to allow the ~~dependents of the~~ ^{dependents of the} applicant to continue in the quarter bearing 2--16--52(22/19 & 20) till the applicant is repatriated to Secunderabad and after his repatriation to Secunderabad and his dependents he/may either be allowed to continue in the same quarter or allot a fresh quarter. The application is allowed accordingly. There will be no order as to costs.

(J. NARASIMHAMURTY)
Member (Judl.)

Date: 15-2-90