

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH

AT HYDERABAD

ORIGINAL APPLICATION NO. : 450 of 1997

DATE OF ORDER : 2-3-1998

BETWEEN :

N. RAMDAS

.. Applicant

AND

1. The General Manager (Planning Branch),
Telecom. District, Vijayawada - 520010
2. The Asst. General Manager (Planning)
Telecom. District, Vijayawada - 520010.
3. The Senior Superintendent,
Tele Traffic, Vijayawada Division
Vijayawada .. Respondents

COUNSEL FOR THE APPLICANT
COUNSEL FOR THE RESPONDENTS

SHRI V. VENKATESWAR RAO
SHRI V. RAJESWARA RAO

CORAM :

THE HON'BLE SHRI A.V. HARIDASAN : VICE-CHAIRMAN,
ERNAKULAM BENCH
THE HON'BLE SHRI R. RAJENDRA PRASAD : MEMBER (ADMN.)

(ORDER PER HON'BLE SHRI A.V. HARIDASAN, V.C., ERNAKULAM BENCH)

Heard Mr V. Venkateswara Rao for the Applicant
and Mr V. Rajeswara Rao for the Respondents.

2. This is the second round of litigation between
the Applicant, a Group 'D' employee in the Telecommunication
Department and the Department regarding an order directing
the Applicant to vacate the quarters in which he is
residing and to pay penal rent. The facts, in brief, can
be stated as follows :-

When the Applicant was working as a Telegraphman

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in the office of the second Respondent, he was transferred temporarily to Gunnavaram by an order dated 12-8-1992. He was not given any Daily Allowance or Travelling Allowance or Joining Time, on transfer. The distance from Vijayawada to Gunnavaram is only 25 kms. The Applicant was in occupation of Quarter No. E-5, Type II, Mohd. Estate, Telecom. Quarters, Vijayawada. As the transfer was a temporary one, he did not seek allotment of quarter at Gunnavaram. While the Applicant was thus working at Gunnavaram, he was served with an order dated 24-4-1993, whereby the transfer of the Applicant to Telecom. Centre Gunnavaram by the order dated 12-8-1992 was treated as a regular transfer with effect from 12-2-1993. The Applicant maintains that he was informed by the authorities inspite of this order he would be put back to Vijayawada without delay. While the Applicant continued to retain the quarter at Vijayawada, he was served with a letter dated 14-11-1994 issued by the third Respondents informing that he was not permitted to retain the quarter after his permanent transfer to Telecom. Centre, Gunnavaram. The Applicant, therefore, requested retransfer to Vijayawada and for permission to retain the quarters at Vijayawada as was given in the case of similarly situated persons. The request of the Applicant for retransfer to Vijayawada was acceded to and he was transferred to Vijayawada by order dated 12-3-1996. However, the Applicant was served with an order dated 18-3-1996 directing him to vacate the Quarter No. E-5, Type II quarter, Mohd. Estate, Telecom. Quarters, Vijayawada, forthwith. It was also stated that penal rent would be recovered from his pay and allowances w.e.f., 12-4-1993. The Applicant submitted a representation on 4-4-1996 to the second Respondent requesting to permit him to retain the quarter at Vijayawada as he had already

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been brought back to Vijayawada by order dated 12-3-1996. Without considering the request and without issuing any order an amount of Rs. 2,000/- was recovered from the pay of the Applicant for the month of May, 1996 and an amount of Rs. 1,598/- from his pay for the month of June, 1996 towards penal rent. The representations made by the Applicant on 4-4-1996 was rejected by the second Respondents by his order dated 18-7-1996. Aggrieved by the orders dated 18-3-1996 and 18-7-1996, of the second Respondent, the Applicant filed OA 906/96 before this Bench of the Tribunal impugning the validity of these orders. These orders were set aside by the Tribunal with a direction that the second Respondent should issue a notice to the Applicant in accordance with the Rules for evicting him from the quarters following the Public Premises Act and further orders for eviction should be passed only after considering the reply from the Applicant. On the basis of this order the recovery of penal rent was stopped and the Respondents issued the impugned order dated 19-9-1996 purported to be notice under Sec. 5(1) of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971. The Applicant has impugned these orders on the ground that these orders are illegal, unjustified, opposed to the principle of natural justice and not in consonance with the provisions in Public Premises (Eviction of Unauthorised Occupants) Act, 1971.

3. The Applicant has also stated that as the Applicant was not given TA, DA or Joining Time, while he was transferred to Gunnavaram, and while he was retransferred to Vijayawada and was also not given Daily Allowance, during his temporary transfer, he was justified in treating that throughout

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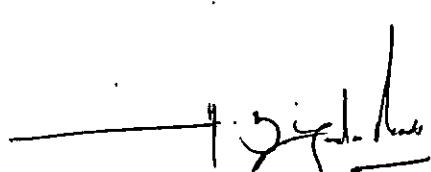
the period in Gunnavaram he was on temporary transfer and he was entitled to retain the quarter at Vijayawada. In view of the fact that the Applicant was not brought back to Vijayawada while other persons transferred alongwith him were retransferred and in view of the fact that the Applicant was denied transfer TA, DA and Joining Time, the Applicant is entitled to be treated to be on temporary transfer throughout the period he was posted at Gunnavaram, states the Applicant. Therefore, the Applicant apart from seeking to have the impugned order quashed has also prayed that it may be declared that he is entitled to retain the quarter in question.

4. Though the Respondents have filed a reply statement seeking to justify the impugned order, when the matter came up for hearing today, taking note of the fact that impugned orders of eviction passed under Section 5(1) of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 having been passed without issuing a notice as required under Section 4 of the Act, the Learned Counsel of the Respondents, fairly conceded that the impugned order may be set aside and the Respondents be given an opportunity to take appropriate action after giving the Applicant a notice as required under Sec 4(1) of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971. In view of the above submission by the Learned Counsel, the controversy involved in this case has narrowed down next to nil. We, therefore, set aside the impugned order dated 19.9.1996 and grant liberty to the Respondents to take action for the eviction of the Applicant following the provisions of Section 4 and 5

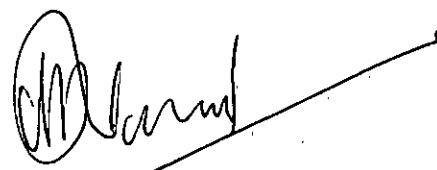
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of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971. We also observe that when the Respondents consider the representation to be made by the Applicant in reply to the notice under Section 4 of the Act, the fact that the Applicant was not granted T.A., D.A. or joining time on his transfer to Gunnavaram and when he was transferred back shall also be taken into consideration by the Respondents.

There is no orders as to costs.



(H. RAJENDRA PRASAD),
MEMBER (A)

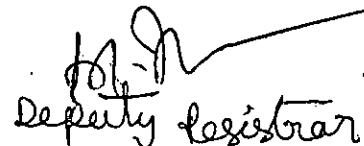


(A.V. HARIDASAN)
VICE-CHAIRMAN,
ERNAKULAM BENCH

DATED : 2-3-1998

DICTATED IN OPEN COURT

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Deputy Registrar

O.A. 450/97.

To

1. The General Manager(Planning Branch)
Telecom Dist.Vijayawada-010.
2. The Assistant General Manager(Planning)
Telecom. Dist. Vijayawada-010.
3. The Senior Superintendent,
Tele Traffic, Vijayawada Division,
Vijayawada.
4. One copy to Mr.V.Venkateswar Rao, Advocate, CAT.Hyd.
5. One copy to Mr.V.Rajeswara Rao, Addl.CGSC.CAT.Hyd.
6. One copy to DR(A) CAT.Hyd.
7. One spare copy

pvm

17/3/98
I Court

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD

THE HON'BLE MR.JUSTICE AV Hadi Dasa
VICE-CHAIRMAN (Ernakulam
Bench)
AND

THE HON'BLE MR.H.RAJENDRA PRASAD:M(A)

DATED: 2-3-1998

ORDER/JUDGMENT:

M.A./R.A./C.A.NO.

O.A.No.

in
150/97

T.A.No.

Q.W.P

Admitted and Interim directions
Issued.

Allowed

Disposed of with direction

Dismissed.

Dismissed as withdrawn

Dismissed for Default.

Ordered/Rejected.

No order as to costs.

pvm.

