

**Central Administrative Tribunal
Principal Bench**

OA No.0393/2017
MA No.3426/2017
MA No.3161/2017

New Delhi this the 9th day of October, 2017.

HON'BLE MR. K.N. SHRIVASTAVA, MEMBER (A)

Smt. Suchitra Goswami,
W/o Sh. Prakash Goswami,
R/o Flat No.D-II/233,
Kidwai Nagar (West),
New Delhi-110023.

-Applicant

VERSUS

Union of India through
Secretary,
Directorate of Estates,
Ministry of Urban Development,
C-Wing, Nirman Bhawan,
New Delhi.

-Respondent

O R D E R (ORAL)

This is a classic case of how a litigant misuses judicial processes for protecting his/her vested interest. The factual matrix of this case, as noticed from the records, is as under:

2. The applicant belonging to Central Secretariat Service (CSS), retired, on attaining the age of superannuation, on 31.07.2011. While in service, she was allotted government quarter No. D-II/233, Kidwai Nagar (West), New Delhi. As per the extant rules, she was entitled for retaining the accommodation after her retirement for a maximum period of 8 months on payment of normal/enhanced

licence fee. This period of 8 months ended on 31.03.2012. She refused to vacate the accommodation. Consequently, the respondents initiated action for her eviction under the Public Premises (Eviction of Unauthorized Occupants) Act, 1971 (in short, the PP Act). The authority concerned under the PP Act passed eviction order against the applicant on 10.10.2013. She challenged the eviction order in the Court of District Judge, Patiala House, New Delhi, which is still pending.

2.1 The applicant secured re-employment as a Consultant in the erstwhile Planning Commission now called Niti Aayog much belatedly for a year w.e.f. 12.06.2014, which was later extended upto 30.11.2015. The terms of engagement of the applicant in the Planning Commission/Niti Aayog did not stipulate her entitlement for a government accommodation. With the sole purpose of somehow securing her continuation in the government accommodation occupied by her, she filed Writ Petition (C) No.10182/2015 before the Hon'ble High Court of Delhi, stating therein that she was entitled for retaining government accommodation on her engagement as a Consultant in Planning Commission/Niti Aayog and that her representation to the respondent in that regard had not been disposed of. As a result, the Hon'ble High Court was pleased to dispose of the Writ Petition

vide order dated 30.10.2015 with the following directions to the respondent:

“No basis for fixing the contractual employment of three years is given in the impugned order. Hence, the impugned order is hereby quashed with direction to respondent to decide petitioner’s Representation (Annexure P-7 colly.) afresh within a period of six weeks by passing a speaking order and while dealing with the instance (Annexure P-8 colly.) and the fate of the Representation be made known to petitioner within a week thereafter so that petitioner may avail of the remedies as available in law, if need be.”

2.2 The respondent, in obedience of the directions issued by the Hon’ble High Court vide order dated 30.10.2015, re-examined her case and gave due consideration to her two representations dated 11.06.2015 (Annexure A-2) and vide Annexure P-1 letter dated 16.12.2015 informed her that her representations had been rejected and asked her to vacate the residential accommodation. The respondent had also quoted the relevant rule position in the matter.

The relevant extract from the said letter is reproduced below:

“It is also informed you that it is confirmed from Planning Commission (Now NITI Aayog) vide their letter No.-A-12013/29/2014-Admn.I dated 14.12.2015 that **Smt. Suchitra Goswami was engaged with NITI Aayog** for the period of one year w.e.f. 12.6.2014. Her tenure was extended up to 30.6.2015 and subsequently up to 30.9.2015 and 30.11.2015. Thereafter, no further extension is given to her to continue her services in NITI Aayog and her contract with NITI Aayog comes to end on 30.11.2015. It is also informed that Adm.I Section, has not made any recommendation for regularisation of above said Govt. accommodation in her name.”

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“In view of above the case of Smt. Suchitra Goswami as per her requested dated 11.6.2015 for regularisation neither specific forwarded by the NITI Aayog nor covered under the Rules. Smt. Goswami is advised to vacate the said possession under her occupation immediately and clear all rental dues/damages.”

2.3 The letter had also noted that the applicant did not state in the Writ Petition (C) No.10182/2015) that she had filed an appeal against the eviction order dated 10.10.2013 before the learned District Judge, Patiala House, New Delhi.

2.4 The applicant challenged the Annexure P-1 communication dated 16.12.2015 before the Hon'ble High Court in Writ Petition (C) No.12263/2015 in which an interim order dated 15.01.2016 was passed directing the respondents to maintain *status quo* with regard to the accommodation in question till the next date of hearing.

2.5 When the Writ Petition (C) No.12263/15 was taken up for final hearing by the Hon'ble High Court of Delhi, a submission was made on behalf of the petitioner therein (applicant herein) that the petitioner be allowed to withdraw the Writ Petition and approach the Central Administrative Tribunal, Principal Bench, New Delhi. Accordingly, vide order dated 06.01.2017, the Writ Petition was disposed of. The operative part of this order reads as under:

“6. Accordingly, while allowing this writ petition to be withdrawn and vacating the interim order passed therein, liberty is granted to the petitioner to approach the Central Administrative Tribunal, Principal Bench, New Delhi, including by seeking interim orders, and the Central Administrative Tribunal will hear and dispose of the matter in accordance with law.”

2.6 Availing the liberty granted by the Hon'ble High Court of Delhi, the applicant has filed the instant OA under Section 19 of the Administrative Tribunals Act, 1985, praying for the following reliefs:

“I. Declare the Impugned Order dated 16.12.2015 bearing no DII/233/KDN(west)/TypeE(B)/2015 passed by the Dy. Director of Estates, Ministry of Urban Development, Govt. of India is void *ab initio*;

II. Quash the Impugned Order dated 16.12.2015 bearing no.DII/233/KDN(west)/TypeE(B)/2015 passed by the Dy. Director of Estates, Ministry of Urban Development, Govt. of India;

III. Direct the Respondent Authority to regularize the existing General Pool accommodation of the Original Applicant against the Planning Commission Pool.

IV. Direct the respondent to consider the case of the Original Applicant for moderation of damages and charge reasonable rent till release of her full retirement benefits.”

3. A counter-affidavit has been filed on behalf of the respondents to which the applicant has filed a rejoinder. On completion of the pleadings, the case was taken up for hearing the arguments of the learned counsel for the parties on 09.10.2017. Arguments of Shri Robin Mazumdar, learned counsel for the applicant and that of Shri H.K. Gangwani, learned counsel for the respondent were heard.

4. Before dealing with the pleadings and arguments of the rival parties, I consider it necessary to first deliberate over the jurisdiction and powers of this Tribunal to deal with such matters. Section 14 of the Administrative Tribunals Act, 1985 prescribes powers and authority of the Tribunal. This Section is extracted below:

“14. Jurisdiction, powers and authority of the Central Administrative Tribunal.- (1) Save as otherwise expressly provided in this Act, the Central Administrative Tribunal shall exercise, on and from the appointed day, all the jurisdiction, powers and authority exercisable immediately before that day by all courts (except the Supreme Court in relation to- (a) recruitment, and matters concerning recruitment, to any All-India Service or to any civil service of the Union or a civil post under the Union or to a post connected with defence or in the defence services, being, in either case, a post filled by a civilian; (b) all service matters concerning- (i) a member of any All-India Service; or (ii) a person [not being a member of an All-India Service or a person referred to in clause (c)] appointed to any civil service of the Union or any civil post under the Union; or (iii) a civilian [not being a member of an All-India Service or a person referred in clause (c)] appointed to any defence services or a post connected with defence, and pertaining to the service of such member, person or civilian, in connection with the affairs of the Union or of any State or of any local or other authority within the territory of India or under the control of the Government of India or of any corporation [or society] owned or controlled by the Government; (c) all service matters pertaining to service in connection with the affairs of the Union concerning a person appointed to any service or post referred to in sub-clause (ii) or sub-clause (iii) of clause (b), being a person whose services have been placed by a State Government or any local or other authority or any corporation [or society] or other body, at the disposal of the Central Government for such appointment.”

5. From Section 14 it is quite clear that the Tribunal is empowered only to consider the service matters. In the present case, the issue involved is not at all connected with the service matters. The applicant had retired from the service of the Government way back on 31.07.2011. For her unauthorized occupation of the government accommodation beyond the prescribed period, she was proceeded against under the PP Act and eviction order dated 10.10.2013 was passed against her. She had filed an appeal before the District Judge Court, Patiala House, New Delhi. This fact she did not disclose before the Hon’ble High Court of Delhi in the two Writ Petitions mentioned hereinabove that she

had filed. Her engagement as a Consultant by the Planning Commission/Niti Aayog did not entitle her to a government residential accommodation. The Planning Commission/Niti Aayog has never issued any communication to the respondent in regard to her entitlement for such accommodation. From this it is crystal clear that the reliefs sought by the applicant have got no relationship with the service conditions of the applicant within the meaning of Section 14 of the Administrative Tribunals Act, 1985.

6. Furthermore, it is pertinent to mention that the Hon'ble Supreme Court in the case of **Union of India v. Rasila Ram**, [(2001) 4 SCC 505] has held as under:

“2. The Public Premises (Eviction of Unauthorised Occupants) Act, 1971 (hereinafter referred to as the "Eviction Act") was enacted for eviction of unauthorised occupants from public premises. To attract the said provisions, it must be held that the premises was a public premises, as defined under the said Act, and the occupants must be held unauthorised occupants, as defined under the said Act. Once, a Government servant is held to be in occupation of a public premises as an unauthorised occupant within the meaning of Eviction Act, and appropriate orders are passed thereunder, the remedy to such occupants lies, as provided under the said Act. By no stretch of imagination the expression any other matter in Section 3(q)(v) of the Administrative Act would confer jurisdiction on the Tribunal to go into the legality of the order passed by the competent authority under the provisions of the Public Premises (Eviction of unauthorised Occupants) Act, 1971. In this view of the matter, the impugned assumption of jurisdiction by the Tribunal over an order passed by the competent authority under the Eviction Act must be held to be invalid and without jurisdiction. This order of the Tribunal accordingly stands set aside. The appeals are accordingly allowed.”

7. In view of the observations made in the pre-paras, and the above judgment of Hon'ble Apex Court, I am of the firm view that

this OA is not at all maintainable in the Tribunal. Accordingly the OA is dismissed.

8. No order as to costs.

9. In view of the above, no separate orders are required to be passed on MA No.3426/2017 and MA No.3161/2017. These MAs accordingly stand disposed of.

(K.N. Shrivastava)
Member (A)

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