

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI**

OA 4647/2015

This the 13th day of February, 2019

Hon'ble Mr. Pradeep Kumar, Member (A)

Rehamtullah,
Executive Officer,
Recovery (Damages)
Dte General of Lighthouses & Lightships,
Ministry of Shipping, Deep Bhawan
A-13, Sector-24, Noida
Gautam Budh Nagar, U.P.
S/o Late Sri Hashmat Ullah,
A-13, Near Yogmaya Multispecialist Hospital,
Chattarpur Extn. New Delhi-74Applicant

(By advocate: Mr. Thomas Joseph)

Versus

1. Union of India
Through Secretary,
Ministry of Urban Development,
Govt. of India, Nirman Bhawan, New Delhi-11.
2. Secretary,
Ministry of Shipping, Govt. of India,
Transport Bhawan, Parliament Street,
New Delhi-01
3. Director General,
Dte. General of Lighthouses & Lightships,
Ministry of Shipping, Govt. of India,
Deep Bhawan, A-13, Sector-24, Noida,
Gautam Budh Nagar, U.P.
4. Director,
Dte. Of Estate, 'B' Wing,
4th Floor, Nirman Bhawan, New Delhi-01
5. Estate Officer,
Dte. Of Estates, 'B' Wing,
4th Floor, Nirman Bhawan, New Delhi-01.

(By advocate: Mr. Gyanendra Singh)

ORDER (ORAL)

The applicant was serving Ministry of Shipping and he is slated for retirement in the year 2020. While in service, he was allotted a Type-II quarter on 31.03.1989, under the General Pool Accommodation at Delhi. The office wherein the applicant was working, was shifted to Noida on 12.08.1999. Thereafter, a relevant notification was issued on 15.09.1999 that the erstwhile staff of the shifted office, are not eligible for General Pool Accommodation at Delhi. However, the applicant did not vacate his quarter at Delhi and was still in possession of the Type-II quarter allotted to him under the general pool.

2. Proceeding against PPE Act were initiated against the applicant and Eviction Order was passed on 19.06.2001. Feeling aggrieved the applicant challenged this order in the Court of Additional District Judge. The learned ADJ vide order dated 19.06.2001 upheld the decision by the Estate Officer under the PPE Act.

Against this order by the ADJ, the applicant approached the Tribunal which was dismissed on account of non availability of jurisdiction with the CAT in PPE Act cases. Thereafter, the applicant approached the Hon'ble High Court of Delhi in WP(C) No. 6228/2001. The Hon'ble High Court had granted stay in favour of

the applicant restraining the respondents from dispossessing the petitioner from the said quarter. Subsequently, this stay was made absolute during the pendency of the writ vide orders dated 12.04.2004. The judgment was delivered on 09.12.2010 wherein the decision by the Estate Officer and the ADJ was upheld.

With this, the applicant was advised on 04.08.2014 of certain recoveries for this quarter, for the period it was in his unauthorized occupation.

3. Thereafter, the applicant made a representation dated 14.10.2014 to respondent no.4 not to effect the recoveries. There was no response to this representation and, being aggrieved, the petitioner approached the Tribunal at Allahabad in OA No.330/01638/2014. This petition was not accepted for want of territorial jurisdiction and the same was dismissed as withdrawn vide orders dated 12.12.2014. Thereafter, the applicant approached Hon'ble High Court of Allahabad vide Writ-A No.7276/2015 on 03.02.2015. This writ was dismissed vide orders dated 11.02.2015. Thereafter, the applicant again made a prayer to respondent no.4 on 02.03.2015 against the said recovery. The said quarter was thereafter vacated by him on 21.04.2015. His request to stop recoveries was transmitted to respondent no.1 on 02.06.2015. Thereafter, the Directorate of Estate, who are the custodian of

General Pool Accommodation at Delhi, issued an order dated 04.12.2015 which states as under:-

“Since the eviction order has been upheld legal by the District Court and the High Court and there is no direction about charging of Licence Fee/Damages, applicable rate of damages are to be charged in this case as the allottee has unauthorizedly occupied the Govt. Accommodation beyond permissible period.”

Accordingly this letter also states that licence fee/damaged for the period 10.12.1999 to 21.04.2015 amounting to Rs. 12,74,761/- are to be paid by the applicant.

4. Feeling aggrieved against this order dated 04.12.2015, the applicant had approached the Tribunal in the instant OA and sought following reliefs:-

“A. To quash the impugned Order bearing No. 875/5/RKP/T-II(A)2015(PT) dated 04.12.2015 (Annexure P-I) issued by Respondent No. 4, along with Recovery Memo No. S-5/875/RKP/TR-II dated 09.01.2015 issued by Respondent No. 5 or connected thereto, against the petitioner, directing the petitioner to deposit damages worth Rs. 12,29,294/- (Rs. Twelve lacs Twenty-nine thousand two hundred Ninety four only) towards alleged damages w.e.f. 12.10.99 to 21.04.2015 or so on.”

Interim relief has also been sought. No interim relief was granted by the Tribunal.

5. The applicant pleads that while his writ petition against the order of ADJ was dismissed by the Hon'ble High Court on 09.12.2010, Hon'ble High Court has not ordered for any recovery and as such no recoveries are admissible.

6. The respondents opposed the application. It was brought out that the case of unauthorized occupation of the government accommodation has originally emanated because of the decision of shifting of the office and thereafter the applicant not remaining eligible anymore for allotment of general pool accommodation. Since the accommodation was still not vacated, the respondents were left with no alternative except to initiate the proceedings under PPE Act. When the Estate Officer passed an order of eviction on 19.06.2001, it was challenged in the Court of ADJ wherein the judgement of the Estate Officer was upheld on 01.09.2001.

When the applicant approached the Hon'ble High Court in W.P.(C) 6228/2001 against this order by ADJ, the Writ was dismissed on 09.12.2010. With this, the order of eviction under PPE Act has attained finality and this Tribunal doesn't have jurisdiction to go into such cases. This is in line with what has been already decided by the Hon'ble Apex Court. The OA is needed to be dismissed for want of jurisdiction.

7. Matter has been heard at length. The applicant's case was argued by Shri Thomas Joseph, learned counsel and the respondents' case was argued by Shri Gyanendra Singh, Learned counsel.

8. The facts of this case are not in doubt. The applicant was allotted a General Pool Accommodation way back in

1989. However, with the shifting of the office in 1999 all employees of that office were no more eligible for allotment of said General Pool Accommodation. Since, the same was not vacated, action under PPE Act was initiated which has attained finality with Hon'ble High Court dismissing the Writ on 09.12.2010. The reliefs sought in this OA are primarily to negate the proceedings under PPE Act. Therefore, this Tribunal doesn't have jurisdiction to adjudicate on this matter.

9. The amount of recovery charges advised to the applicant vide Directorate of Estate letter dated 04.12.2015, pertain to the period of unauthorised occupation of the said government accommodation for the period from 12.10.1999 to 21.04.2015.

The High Court order dated 09.12.2010 was in the context of action taken under PPE Act, which itself was as a result of unauthorized occupation of the said quarter. Once the Hon'ble High Court dismissed the writ, it follows that the said quarter was under unauthorized occupation. Moreover, the Hon'ble High Court's order was silent about the charges or the licence fee etc. Therefore, the necessary rules for charging of penal rent becomes applicable automatically. Accordingly, it is the Tribunal view that applicant has to pay those charges at applicable rate as he was in unauthorized occupation of that quarter for that time duration.

10. In view of the foregoing the present OA is dismissed being devoid of merit. No orders as to costs.

(Pradeep Kumar)
Member (A)

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