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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A. NO.311/2003

New Delhi this the 11th day of February, 2003.

HON'BLE SHRI JUSTICE V.S. AGGARWAL, CHAIRMAN

HON'BLE SHRI GOVINDAN S. TAMPI, MEMBER (A)

Ms. N.M. Singh
TV News Correspondent
Presently R/o 1490, Outram Lines
Kingsway Camp
Delhi-110009,.

... Applicant

(By Shri V.K. Shali, Advocate)

vs.

1. Union of India
Through Directorate of Estates
Nirman Bhavan, New Delhi.
2. Chief Executive Officer
Prasar Bharti Broadcasting
Corporation of India
Prasar Bharti
New Delhi.
3. Director General of Doordarshan
Prasar Bharti, Mandi House
New Delhi. Respondents

O R D E R (ORAL)

Justice V.S. Aggarwal:-

Applicant Ms. N.M. Singh, by virtue of the present application, seeks quashing of the order of 10.9.2002 showing that the applicant is in arrears of Rs. 5,96,723/- on account of use and occupation of Flat No. 506, Servant Quarter No. S 1/403 and Garage No. G 5, Curzon Road Apartments and also quashing of the letters dated 21.12.2002 and 31.12.2002 issued by the Director of Administration conveying that in case the applicant did not

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resolve the matter with the Directorate of Estates, he would be constrained to deduct Rs.10,000'/- from her salary. She also prays for a direction to respondent No.1 to hold an enquiry as to under what circumstances, the applicant was evicted unauthorisedly from the abovesaid flat and other premises and that compensation should be paid to her.

2. Some of the relevant facts are that in the year 1986, the applicant's husband was allotted the said flat in Curzon Road Apartments. Unfortunately, the husband of the applicant died in the year 1987. The said flat was regularised in the name of the applicant who had taken appointment with the Doordarshan. She continued to be in occupation of the said flat till September 2001. The applicant had not been paid salary from 25.7.1997 to 6.6.2002. She had preferred OA No.977/2000. This Tribunal had decided the same on 12.11.2002 directing the respondents to release the salary of the applicant. The applicant was further directed to make a representation to facilitate respondent No.2 and 3 to take a decision regarding her salary. In order to harass the applicant and flout the orders of this Tribunal, the applicant has been threatened with a recovery of Rs.10,000/- per month towards licence fee of the said flat from her salary and further Rs.5,96,723/- are said to be due from her.

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3. Needless to state that earlier OA No.977/2000, filed by the applicant had been dismissed by this Tribunal on 8.2.2001. The matter was taken up in the Delhi High Court and the said order was quashed and it was remitted to this Tribunal for a decision afresh. It was finally disposed of on 12.11.2002 and this Tribunal had directed:-

- "(i) The respondents are directed to grant the salary for the period in question i.e. from 25.7.1997 to 31.5.2000 as admissible to the applicant in accordance with the relevant rules and instructions. The applicant to submit a detail representation duly supported by relevant documents within two weeks to facilitate the respondents to take the decision in the matter. She may also be granted a personal hearing, if so requested, before a final decision is taken in the matter by the competent authority;
- (ii) Necessary action shall be taken by the respondents within a period of two months from the date of receipt of the aforesaid representation.
- (iii) Interest on the arrears of salary due to the applicant shall be paid in accordance with the relevant rules from the due dates till the actual payment, which shall also be paid within the aforesaid period."

4. Presently, it is contended that in order to harass the applicant, a demand had been made on basis of the letter of the Assistant Director of Estates Accounts dated 10.9.2002 that Rs.5,96,723/-is outstanding against the applicant and further vide letter dated 21.12.2002, the

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applicant had been threatened about the recovery of Rs. 10,000/- per month from her salary.. The two letters dated 10.9.2002 and 21.12.2002 read as under:-

No.4/784/88 Hostel
Government of India
Directorate of Estates
Hostel Section

10 Sep 2002

To
The Deputy Director (Admn.)
Directorate General Doordarshan Kendra
Mandi House, New Delhi.

Sub:- Government dues outstanding against Smt. Neelam Mahajan Singh in respect of Suite No. A 506 CR Hostel Ser. Quarter S 1/403 Garage No. 5 CR Hostel.

Sir,

Please refer to this directorate's letter of even Number dated 12.10.2001 by which a sum of Rs. 596723/- was intimated to be outstanding against Ms Neelam Mahajan Singh TV News correspondent, in respect of suite No. A 506 CR Hostel Servant Quarter S 1/403 and Garage No. 5 which remained in her occupation till 3.10.2001.

The above amount has been accumulated over a period of time as the officer did not pay up the dues regularly while remaining in occupation of the Government accommodation in the absence of her whereabouts this Directorate is unable to correspond with her direct.

You are therefore requested to arrange for recovery of the above dues and intimate to the undersigned the present whereabouts of Ms. Neelam Mahajan Singh as may be known by the records available to enable this Directorate to liquidate the outstanding dues. She is reported to be absenting from duty since 1.10.1997. The accounts of Smt. Neelam Mahajan Singh may not be settled without obtaining a 'No Demand Certificate

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from this directorate.

Yours faithfully

Sd/
Asstt. Director of Estates Accounts"

"Prasar Bharati
(Broadcasting Corporation of India)
Doordarshan (News), New Delhi.

No.19(NMS)/97-S(Vol.III/9145

Dated 21st December, 2002

Subject: Recovery of Govt.dues
outstanding against Ms.Neelam Mahajan
Singh, TV, NC, in respect of Suite No.A 506
CR Hostel Servant Quarter S1/403 Garage
No.5 CR Hostel.

It has been intimated by the Directorate of Estate, New Delhi, that a sum of Rs.5,96,723/- is outstanding against Ms Neelam Mahajan Singh, TV NC in respect of above mentioned government accommodation which remained in her occupation till 3.10.2001. Ms Singh may please clear the aforesaid government dues, in consultation with the Directorate of Estates, and submit a report in this regard so as to reach this office on or before 20th January 2003, failing which necessary action would be taken to make the recovery of the above mentioned amount at the rate of Rs.10,000/- per month from her salary for the month of January, 2003 onwards."

5. The learned counsel for the applicant had pointed in terms that a direction has already been given by this Tribunal to pay the arrears to the applicant which we have reproduced above. The same is stated not to have been complied with within the stipulated time. We are not delving into the said controversy for the simple reason that if there is violation of the directions of this Tribunal, the applicant, if so advised, would be at liberty to

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initiate proceedings for disobedience of the same.

6. As regard the controversy as to whether the abovesaid sum of Rs.5,96,723/- could be recovered or not, it appears that this is in pursuance of the letter of the Assistant Director of Estates Accounts.

7. We have put it to the learned counsel for the applicant as to how this Tribunal would be in a position to decide this controversy under the Public Premises (Eviction of Unauthorised Occupants) Act, 1971. Section 7 permits the Estate Officer to act in such cases and also to assess the damages on account of the use and occupation of the premises.

8. In the case of Union of India v. Shri Rasila Ram & Ors. in Civil Appeal Nos.1301-04/1990 decided on 6.9.2000, a decision of the Full Bench of this Tribunal was under ~~gaze~~^{gaze} of the Supreme Court. The Supreme Court had set aside the decision of the Full Bench and held that when an order by the competent authority under the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 had been passed, this Tribunal will have no jurisdiction in this regard. It was held:-

"The Public Premises (Eviction of Unauthorised Occupants) Act, 1971 (hereinafter referred to as the "Eviction

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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 13 (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."

A Division Bench of the Delhi High Court in the case of Smt. Babli & Anr. v. Govt. of NCT of Delhi and Ors., 95(2002) Delhi Law Times 144 was concerned with almost a similar situation. Certain Government servants were holding on to the premises and were asking for regularisation of the allotment. The Government of National Capital Territory of Delhi had rejected their request and ordered charging of market rent from them besides initiating eviction proceedings.

9. They had filed Original Applications before this Tribunal. This Tribunal following the ratio deci dendi of the decision in the case of

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Rasila Ram (supra) dismissed the said applications. The Division Bench of the Delhi High Court dismissed the writ petition by holding:-

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"8. We have gone through that judgement which proceeds on the premises that once eviction action was initiated for his unauthorised occupation of premises under the relevant Act, Tribunal could not assume jurisdiction in the matter by reference to Section 3(Q)(V) by treating it as "any other matter". That conclusively settles the issue once for all and it need be hardly expressed that law laid down by Supreme Court was binding on all including Tribunal and therefore its impugned orders could not be faulted for that. This is so for the added reason that Eviction Act provided its own safeguards and remedies and where an employee felt aggrieved of any orders passed under this Act, he was to seek appropriate remedy provided therein instead of approaching the Tribunal with his grievance in this regard."

10. In the case of Smt. Babli (supra), the respondents were already charging the market rent. It is obvious that it was held that this Tribunal does not have jurisdiction in this regard.

11. In the present case in hand, there is no averment that proceeding under the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 had not taken place.

12. Resultantly, taking stock of the abovesaid facts, we hold that the application is not maintainable and accordingly, the same is

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dismissed in limine.

Announced.

(Govindan S. Tampi)
Member (A)

/sns/

(V. S. Aggarwal)
Chairman