
(2019) 08 CAT CK 0072

In the Central Administrative Tribunal

Case No : Original Application No. 2252 Of 2018

Rajesh Kumar

APPELLANT

Vs

Union Of India Through And Ors

RESPONDENT

Date of Decision : 20-08-2019

Acts Referred:

Public Premises (Eviction Of Unauthorized Possession) Act, 1971 — Section 4, 7

Citation : (2019) 08 CAT CK 0072

Hon'ble Judges : Nita Chowdhury, Member (A)

Bench : Single Bench

Advocate : PS Khare, Subhash Gosai

Final Decision : Allowed

Judgement

1. The applicant has filed this OA, seeking the following reliefs:-

"8.1 to allow the OA and quash and set aside the impugned order dated 10.05.2018 (Ann.A-1) with all consequential benefits and direct the respondents not to take any cognizance thereon and no proceeding be drawn on the alleged subletting in respect of quarter no.K-218, Sarojini Nagar, Delhi; and

8.2 to pass any such other order or direction as the Hon"ble Tribunal may deem just and proper as per facts and circumstances of the case besides the cost and expenses of present litigation and exemplary cost from the respondent no.2 for harassment."

2. The applicant, through this OA, has challenged the impugned order dated 10.05.2018 whereby recovery of Rs.34,40,205/- has been imposed on the applicant by the Accounts of the Directorate of Estates for the period from 01.09.2012 to 23.04.2018 on account of his allotment of Government accommodation being said to have been cancelled on the charge of sub-letting. He has challenged that the said order was passed without invoking the provisions of Sections 4 and 7 of the Public Premises (Eviction of Unauthorized Possession) Act, 1971 and that the charge of sub-letting had been disproved by the Estate

Office way back in May, 2016.

3. The respondents, while contesting the OA, have filed the reply. They have contended that when the Inspection Team, during their inspection on 19.01.2013, found that the premise allotted to the applicant was found to be occupied by some other unauthorized persons, a show cause notice dated 21.02.2018 was issued to the applicant asking him to show cause as to why the allotment in his name may not be cancelled and when not finding the statement of the applicant correct with regard to sub-letting, the deciding authority ordered for imposing the penalties vide their order dated 23.10.2013. They have further contended that that applicant had challenged the said order of penalty in appeal before the Appellate Authority on 07.07.2015, which was also rejected by the appellate authority vide its order dated 10.07.2015 finding no merit in the appeal. They have submitted that since the applicant failed to vacate the quarter, the case was referred to Litigation Section for initiating eviction proceedings under the PP Act 1971 on 04.09.2015 and the Estate Office, considering all the facts and submissions made by the applicant, decided to remand back the case on 10.05.2016 to the Department for reconsideration and accordingly, department issued demand letter of amounting to Rs.34,40,205/- vide letter dated 10.05.2018 against damage of the premises on the ground of subletting as the applicant was occupying the premises till 2018 (five years from the date of inspection).

4. From the above facts, it is quite clear that when the applicant failed to vacate the public premises in question, Department had referred the case to the Litigation Section for initiating eviction proceeding under the Public Premises (Eviction of Unauthorized Occupants) Act 1971 on 04.09.2015 and the Estate Office, vide its order dated 10.05.2016 had passed the following order:-

"Therefore after going through the record present in the file and considering the facts, it is clear that the report of the inspection team is not free from suspicion and the Department has not fully proved the case of subletting of the quarter by the allottee to some unauthorized persons. Signature and statement of the neighbors and local CPWD officials were not taken by the inspection team. The documents file by the OP prove that the allottee himself lives in the above premises, the person found in the premises at the time of inspection was the relative of the allottee.

In view of the above, case is remand back to the department for reconsideration the case."

We have also noted that since the date of issue of the aforesaid order by the Estate Officer, the Department had neither reconsidered the matter afresh nor had they issued any fresh show cause notice to the applicant. They had simply passed the impugned order dated 10.05.2019 imposing recovery of Rs.34,40,205/- on the applicant without following the directions of the Estate Officer in his order dated 10.05.2016.

5. Hence, in view of the same, the respondents are directed to reconsider the case of the applicant in accordance with the directions given by the Estate Officer and complete the proceedings within 90 days of receipt of a copy of this order, in accordance with the rules. Thereafter, the revised order with regard to the amount payable on account of subletting the premise in question, damaged charges etc. shall be passed within 30 days of receipt of the reply of the applicant. The applicant is also directed to cooperate in the said proceedings and submit his contentions with a view to avoid any undue delay in completion of the same. In case of any delay caused by non-participation of the applicant, the period given for completion of proceedings shall automatically stand extended to that extent. After passing of the final order, the respondents shall make recovery, if any due, as per rules from the applicant.

6. With the above directions, the OA is allowed to this extent. Consequently, impugned order 10.05.2018 is quashed and set aside. No order as to costs