

DDR

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO. 13019 OF 2017

Mr. Kumar Manoj
An Adult, Indian Inhabitant,
residing at 23/394,
ESIC Nagar, Andheri (W),
Mumbai – 400 053.

.. Petitioner

Vs.

Union of India

.. Respondent

.....
Ms. Smita Shirke i/by Smita Shirke & Asso., Advocate for the
petitioner.

Mr. H.V. Mehta, Advocate for the respondent.
.....

**CORAM : SMT. V.K. TAHILRAMANI &
M.S.KARNIK, J.J.**

DATE : 4th DECEMBER, 2017.

PC. :-

The petitioner filed O.A.No.271 of 2016 before the Central Administrative Tribunal, Mumbai Bench, Mumbai ('the Tribunal' for short) being aggrieved by the order passed by the respondent imposing punishment of removal from service. The

Tribunal by the order dated 26/7/2017 was pleased to dismiss the O.A.

2. The petitioner being aggrieved by the order of the Tribunal preferred Review Application No.20 of 2017 on various grounds. The Tribunal by its interim order dated 24/8/2017 passed in the Review Application directed the respondent not to take coercive steps for eviction of the petitioner from the Government accommodation till the next date of the hearing. When the matter was listed on 25th October, 2017 the petitioner sought adjournment on the ground that his Advocate appointed through Legal Services Authority was not available. The Tribunal was of the opinion that since the petitioner is simply getting the matter adjourned on one ground or the other, interim relief granted deserves to be vacated. The Review Application was listed for final hearing on 13/2/2018.

3. Learned Counsel for the petitioner submitted that due to some genuine difficulty she could not remain present

before the Tribunal on 25/10/2017 and there was no intention on her part to delay the proceedings. She submits that the Advocate for the petitioner was appointed through Legal Services Authority and therefore, prayed that some indulgence be shown to the petitioner.

4. Learned Counsel Shri H.V. Mehta appearing for the respondent strongly opposed the petition. He submits that no case is made out to interfere with the order passed by the Tribunal. He invited our attention to the affidavit-in-reply filed on behalf of the respondent and submitted that adjournments were sought on so many dates. In his submission the petitioner is only trying to drag the matter as he has succeeded in getting an interim order in his favour.

5. In the interest of justice, we are of the opinion that as the petitioner was represented by an Advocate appointed through Legal Services Authority, one opportunity should be granted to the petitioner and the interim relief granted by the

Tribunal deserves continuance. The learned Counsel for the petitioner undertakes to appear before the Tribunal on 11th December, 2017 as we indicated preponment of the hearing of the Review Application before the Tribunal having regard to the continuance of the interim order by us. She further undertakes that she will argue the Review Application on 11th December, 2017 itself and will not seek any adjournment on any count whatsoever. She further undertakes that in case it is not possible for the Tribunal to hear the matter on 11th December, 2017, she would appear on the next date convenient as may be fixed by the Tribunal which shall be before 22nd December, 2017 in which event also she will not seek any adjournment on any count and will proceed with the hearing of the Review Application. In our opinion, the following order would meet the ends of justice :-

ORDER

- (a) The order dated 25th October, 2017 passed by the Tribunal is quashed and set aside.

- (b) The interim order passed by the Tribunal on 24th August, 2017 to continue till 22nd December, 2017.

(c) The Advocate for the petitioner and the respondent to appear before the Tribunal on 11th December, 2017 on which date itself the Tribunal may hear the Review Application No.20 of 2017 on merits or on any other date before 22nd December, 2017 as the Tribunal may deem fit.

(d) In view of the undertaking given by the learned Counsel for the petitioner to appear before the Tribunal on 11th December, 2017 and/or any other date as the Tribunal may fix before 22nd December, 2017, the Advocate appearing for the petitioner to proceed with the matter and no request for adjournment will be entertained by the Tribunal on any ground whatsoever.

(e) The Tribunal to dispose of the Review Application No. 20 of 2017 on or after 11th December, 2017 but in any case before 22nd December, 2017.

(f) The Writ Petition is disposed of in the above terms.

(g) No order as to costs.

(M.S.KARNIK, J.)

(SMT. V.K.TAHILRAMANI, J.)