

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

WRIT PETITION NO.7183 OF 2024

Dr. R.K. Elangovan

...Petitioner

Versus

Union of India and Ors.

...Respondents

...

Mr. P. Sonawane, Mr. Deepal Hariasra, Mr. Raj Chourasia i/b. Ms Sharayu Shinde for the Petitioner.

Mr. Parag A. Vyas for Respondent -Union of India.

**CORAM : SANDEEP V. MARNE &
DR. NEELA GOKHALE, JJ.
(VACATION COURT)**

DATED : 15 MAY 2024.

PC:

1. By this petition, Petitioner challenges order dated 9 May 2024 passed by the Central Administrative Tribunal, Mumbai (**Tribunal**) dismissing Original Application No.498 of 2024.

2. The Original Application was filed by the Petitioner seeking following prayers:

8a) This Hon'ble Tribunal be pleased to direct the respondents not to take any action of eviction of the applicant from his officially allotted Quarter Type VI/02, CLI Campus, Sion, Mumbai -400022 without following the due process of law;

8b) Pending the hearing and final decision of this application, the Respondents be restricted from taking any coercive action against the

Applicant for eviction from the official residential accommodation Type VI/03, CLI Campus, Sion, Mumbai-400 022.

8c) For Cost;

8d) Any suitable relief, which this Hon'ble Tribunal deems fit may be awarded in favour of the present Applicant."

3. The Tribunal has dismissed the Original Application by recording following findings:

4. Learned counsel for the Respondents submits that the first order was passed by the Respondents on 23.02.2024 and the latest order with regard to the government quarter/flat was issued on 25.04.2024. Both the orders are not challenged by the Applicant. Subsequently, the notice was also sent to speed post on 29.4.2024 and sent by email on 25.04.2024. Handwritten note recorded by the concerned officer of Respondent Authorities mentions that "the Committee members /officials visited Type VI-03 to serve notice. The resident /family members not received notice and refused to accept. Hence, the notice is pasted by the Committee at the wall right side of wall of front door".

5. From perusal of the record, it is seen that no specific relief is sought in this OA and no specific order is challenged by the Applicant, in the relief clause.

6. In view of above, the OA stands dismissed as premature at the admission stage itself. No costs.

4. Thus, the Tribunal has refused to entertain the Original Application filed by Petitioner on the ground that he failed to challenge order dated 23 March 2024 directing him to vacate the residential accommodation as well as subsequent communication dated 25 April 2024 and notice dated 29 April 2024.

5. The Petitioner has been prematurely retired from services by order dated 7 February 2024 passed under provisions of Rule 56(j) of

Fundamental Rules (**FR**) after attaining age of 55 years. Mr. Sonawane, the learned counsel appearing for the Petitioner would submit that Petitioner filed representation against the order dated 7 February 2024 before the Representation Committee and the same has been rejected by order dated 3 May 2024. According to Mr. Sonawane Petitioner has challenged the order dated 7 February 2024 as well as the decision of the Representation Committee in separate Original Application.

6. In our view, Petitioner cannot be permitted to occupy the government quarter after his compulsory retirement under provisions of FR 56 (j), moreso when the departmental remedy has already been exhausted and his representation is already rejected by the Representation Committee on 3 May 2024. Now a substantive Original Application challenging the order of compulsory retirement will have to be decided by the Tribunal, which may take its own time. It is unconceivable that till Petitioner's challenge to the order of compulsory retirement is decided by the Tribunal, he can be permitted to occupy the government quarter.

7. Mr. Sonawane has submitted that immediately after passing of order of compulsory retirement dated 7 February 2024, he was directed to vacate the government quarter by order dated 23 February 2024 and according to him, all government servants are permitted to occupy the residential accommodation ordinarily for a period of six months after their retirement.

8. Mr. Vyas, the learned counsel appearing for Respondent -Union of India has placed on record copy of Allotment of Government Residence under the Administrative Control of Directorate General of Factory Advice

Service and Labour Institute Rules 1973 (**Rules**). As per the said Rules it appears that upon retirement, the officer is entitled to retain the residence for a period of two months. In that view of the matter, the order passed on 23 February 2024 directing Petitioner to vacate the residential quarter allotted to him “with immediate effect” appears to be not in consonance with the said Rules. However, we are now unable to provide any solace to Petitioner on account of the fact that period of more than two months have elapsed from 7 February 2024. Therefore, though the action of Respondents is found to be not in consonance with the Rules, we are unable to grant any relief in favour of Petitioner in the present petition.

9. Mr. Sonawane would contend that Respondents have illegally disconnected electricity supply to the residential quarter in possession of the Petitioner. He would submit that Respondents cannot take law into their hands and seek to evict the Petitioner by adopting forcible measures when there is procedure prescribed under the provisions of Public Premises (Eviction of Unauthorised Occupant) Act, 1971. While the grievance of Petitioner about disconnection of electricity supply is appreciated, we are not convinced with the submission that Petitioner must be permitted to occupy the residential quarter till he is evicted by following provisions of Public Premises Act. Under the Rules, the entitlement of Petitioner to retain the quarter is only for two months. In fact, it is in interest of Petitioner that he vacates the quarters as early as possible so as not to attract the liability to pay penal rent.

10. After we expressed disinclination to interfere in the Tribunal’s Order and grant any relief in Petitioner’s favour, Mr. Sonawane would urge that

Petitioner be granted reasonable time to vacate the residential quarter. Considering the facts and circumstances of the case, particularly the fact that Petitioner was not prepared for his retirement and may not have made arrangements for residence post his retirement, as an exceptional case, we permit Petitioner to occupy the residential quarter till 30 June 2024 on payment of normal rent. Respondents shall restore electricity supply to the residential quarter forthwith. Beyond this, we are unable to grant any relief in favour of Petitioner.

11. Writ Petition is accordingly disposed of.

[DR. NEELA GOKHALE, J.]

[SANDEEP V. MARNE, J.]