

MAHARASHTRA ADMINISTRATIVE TRIBUNAL
NAGPUR BENCH NAGPUR
ORIGINAL APPLICATION NO. 664/2016

Sudhakar S/o Manoji Kalbande,
Aged about 48 years, Occ. Service,
R/o SRPF Quarter, SRPF Group No.4,Hingna Road,
Nagpur.

Applicants.

Versus

- 1) State of Maharashtra,
through its Secretary, Home Department,
Mantralaya, Mumbai-32.
- 2) Commandant, SRPF,
Group no.4, Hingna Road,
Nagpur.

Respondents

Shri Ajay K. Madane, Ku.S.G. Chakranarayan, Advs. for the applicant.
Smt. S.V. Kolhe, Id. P.O. for the respondents.

Coram :- Hon'ble Shri J.D. Kulkarni,
Vice-Chairman (J).

JUDGEMENT

(Delivered on this 10th day of April,2017)

The applicant has challenged the order dated 23/08/2016 passed by respondent no.2 whereby he has been directed to vacate the residential quarter occupied by the applicant and to pay rent as per market value. The respondent no.2 is also claiming the amount of Rs.2,34,000/- towards illegal occupation of the Govt. quarter by the applicant. According to the applicant he has filed application before

the Special Inspector General of Police, Nagpur stating that since his appeal against the order of compulsory retirement from service has been pending, the order regarding vacation of the quarter be quashed.

2. From the admitted facts it seems that the applicant was appointed as a Ward Boy in the respondent no.2's department and since the date of joining as Ward Boy, he is occupying the Govt. quarter no.MQ/9 in SRPF, Group, Nagpur. The applicant was made to retire compulsorily. The applicant filed appeal against the order of his compulsory retirement and the said appeal was pending but in the meantime respondent no.2 issued the impugned order dated 23/08/2016 and directed him to vacate the Govt. quarter and to pay penal charges and therefore the applicant was constrained to file this O.A. The applicant has claimed that the order dated 23/08/2016 passed by respondent no.2, the Commandant, SRPF, Group no.4,Hingna Road, Nagpur be quashed and set aside.

3. The respondent no.2 filed its reply-affidavit and submitted that the applicant is misleading the Hon'ble Tribunal. It is stated that vide order dated 23/08/2016 the applicant was directed to deposit the amount of penalty of Rs.2,34,000/- for illegally occupying the Govt. Quarter. Although the applicant was retired compulsorily on 07/04/2014, the said order was challenged before Special Inspector

General of Police SRPF. However, the said appeal was also rejected. The Special Inspector General of Police informed the applicant that he may file appeal or revision as per Rule 8.3 of the Departmental Enquiry Rules 1991 but it was noticed that there was no remedy of appeal or revision. The Director General of Police, the Special Inspector General of Police vide order dated 22/01/2015 had corrected earlier order by withdrawing the Clause of permission of appeal to the applicant.

4. According to the respondents, the occupation charges have been charged as per rules. The applicant has no right to occupy the Govt. quarter since he has already been retired compulsorily. The order of retirement has become final as the said was challenged before the Tribunal but the O.A. challenging the order of compulsory retirement was withdrawn.

5. From the facts of the case as well as from the argument put forth by the respective parties it will be clear that the applicant has been retired compulsorily by the respondent no.2. Admittedly the applicant has challenged his order of retirement by filing appeal before the competent authority. The said appeal has been dismissed. Thereafter the applicant has preferred O.A. 572/2014 challenging his compulsory retirement. However the said O.A. was withdrawn by the

applicant. The order passed in O.A.572/2014 (Exh.-R-1) is placed on record at P.B. of page 27 from which it seems that the applicant himself filed a pursis to withdraw the O.A. and therefore O.A. stood withdrawn. The fact therefore remains that the applicant is not in service at present since he has been retired compulsorily. Since the applicant is no more a Govt. servant, there was no alternative for respondent no.2, but to issue him an order directing to vacate the Govt. quarter. The learned counsel for the applicant could not state as to on what ground the order of vacation of Govt. quarter is illegal. He also could not justify that the charges claimed on account of illegal occupation of Govt. quarter has been wrongly charged against the applicant. In such circumstances, I find no reason to interfere in the impugned order dated 23/08/2016 issued by respondent no.2. Hence the following order :-

ORDER

The O.A. stands dismissed with no order as to costs.

(J.D. Kulkarni)
Vice-Chairman (J).

dnk.