Central Administrative Tribunal, Principal Bench

Original Application No.322 of 2002

New Delhi, this the 8th day of November, 2002

Hon'ble Mr.Justice V.S.Aggarwal, Chairman
Hon'ble Mr.M.P. Singh, Member(A)

Smt.Nirmal Seth
251, Bhera Enclave
Paschim Vihar,
New Delhi ....Applicant

(By Advocate: Shri K.B.S. Rajan)

Versus

1.Union of India
Through Secretary,
Ministry of Defence,
South Block,
New Delhi

2.The Joint Secretary (Trg.) and
The Chief Administrative Officer
Ministry of Defence
D.H.Q. P.O.
New Delhi-11 ....Respondents

(By Advocate: Shri S.M. Arif)

O R D E R

By Justice V.S.Aggarwal, Chairman

Applicant (Smt.Nirmal Seth) is a retired Assistant Civilian Staff Officer of the Armed Forces Headquarters. She retired from service on 31.10.2000. She had been allotted a Govt. accommodation in R.K.Puram since 1988. The allotment had been made by the Directorate of Estate. After having made some enquiries, it was found by the said Directorate of Estate that applicant was not residing in the said accommodation. The allotment was cancelled and she was called upon to vacate the accommodation within 60 days from 5.2.99.

2. Disciplinary proceedings were initiated by the department against the applicant for violation of Rule 15(A)(1) of CCS (Conduct) Rules, 1964 read with Rule

(10)

3(1)(iii) of the said Rules. The chargesheet was served on the applicant. After enquiry, the findings returned by the enquiry officer were that the charges were not proved. The disciplinary authority disagreed with the findings of the enquiry officer vide memorandum of 16.8.2000. Thereafter he imposed a penalty of permanent reduction of pay by three stages from Rs.8300/- to Rs.7700/- in the scale of pay of Rs.6500-10500 vide order of 30.10.2000. The applicant preferred a revision petition to the President which was rejected by the competent authority.

3 Aggrieved by the said order, the present application has been filed.

4. The impugned orders referred to above have been assailed primarily on the ground that there was no evidence on record against the applicant that she had not been residing in the said premises or had sublet the same. It has further been contended that there was no proper order passed by the disciplinary authority disagreeing with the report of the enquiry officer. Even there was police verification wherein it was found that applicant was residing in the said premises. Thus the impugned orders are stated to be perverse.

5. Learned counsel had further drawn our attention that only a family friend had been allowed to stay and there was no subletting of the premises.

6. As already pointed above, the basic charge

against the applicant was that she had unauthorisedly sublet the Govt. accommodation and in that process violated Rule 15-A (1) of the CCS (Conduct) Rules and had conducted herself in a manner unbecoming of a Government servant. Rule 15-A (1) of the Central Civil Services (Conduct) Rules,1964 reads as under:

> "15-A (1) Save as otherwise provided in any other law for the time being in force, no Government servant shall sublet, lease or otherwise allow occupation by any other person of Government accommodation which has been allotted to him."

7. Perusal of the aforesaid rule clearly shows that in a comprehensive manner the Government servants who have been allotted the accommodation are restrained from subletting, leasing or allowing accommodation to any other person. The expression subletting necessarily implies that the third person should be in occupation of the property allotted to a Government servant in some right. In cases of subletting, there should be relationship of landlord and tenant between the allottee and the third person. It would be in very rare cases that direct evidence in this regard would be available. However when a third person is in occupation, it is for the Govt. servant to explain his position otherwise the inferences of subletting can easily be drawn.

8. The argument that there was no evidence on record in the facts of the present case, must be rejected. This is for the reason that the applicant in reply to the memo of 6.5.99 while answering the Articles of Charge, asserted that she had not sublet the premises but admitted that a

family friend was living with her to help her in odd times because she and her husband were not keeping good health. In a vague manner, the applicant avoids giving name of that third person. She feels shy of disclosing identity of that person. If he was a family friend, there was no problem in giving the name so that it could be verified as to in what capacity he was residing therein. The inferences in this process are obvious that had the true facts been disclosed, it would not have supported her case and in that view of the matter, the obvious inferences of subletting were rightly drawn by the concerned authority and it cannot be held that it was a case of no evidence. We hardly need refer to any other material on record which have been taken into consideration that in her leave applications, she had been giving the address of Paschim Vihar and even her medical certificates indicate that she was not living in the premises that had been allotted to her. We find no reason in this regard to accept the argument of the applicant's counsel.

9. In that event it was further alleged that the enquiry officer had exonerated the applicant and disciplinary authority did not give valid reasons in coming to a conclusion to the contrary. Even on that score, the said plea is devoid of merit. It is obvious from the aforesaid that the disciplinary authority who has the right to differ from the report of the enquiry officer, had gone through the records and found that there was reason to differ from the same. The disciplinary authority is not a rubber stamp. It has to apply its own independent mind and

thereupon arrive at a rightful conclusion. That has been done. The findings cannot be described to be erroneous that no reasonable person would come to such a conclusion. Therefore we find no reason to interfere.

10. Taking stock of the totality of facts and circumstances, therefore, we find no reason to interfere in the impugned order. The O.A. being without merit must fail and accordingly is dismissed.

(M.P. Singh)
Member(A)

(V.S. Aggarwal)
Chairman

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