

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

O. A. No. 1679/2002

New Delhi, this 23rd day of August, 2002

Hon'ble Shri Kuldip Singh, Member (J)  
Hon'ble Shri M. P. Singh, Member (A)

M. N. Sivasubramanian  
Economic Adviser  
Department of Chemicals & Petrochemicals  
343 A, Shastri Bhavan  
New Delhi-110 001

.. Applicant

(Applicant in person)

Versus

1. Secretary  
Ministry of Urban Development  
Nirman Bhavan, New Delhi

2. Director of Estates  
Nirman Bhavan, New Delhi

.. Respondents

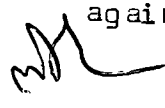
(Shri R. N. Singh, Advocate)

ORDER (oral)  
Shri M. P. Singh, Member (A)

Heard the applicant appearing in person and the learned counsel for the respondents and perused the records.

2. By the present OA, applicant has challenged the order dated 16.8.2001 by which respondents have decided to cancel allotment of Qr. No. D16, Dev Nagar, New Delhi allotted in applicant's name.

3. The admitted position is that on receipt of a complaint, Qr. No. 16-D, Dev Nagar and outhouse (servant quarter) allotted to the applicant was inspected on 15.3.2001 by a team of officers of Directorate of Estates (DoE). At the time of inspection, neither the allottee nor any member of his family was found residing in the quarter. Instead, Smt. Veena Kumari along with her family was found occupying the quarter and the outhouse was occupied by one Shri Chaman Lal unauthorisedly. The Inspection Team obtained the signed statements of the occupants and reported 'full sub-letting' in the quarter. Proceedings have been initiated against the applicant as per Allotment Rules and a show

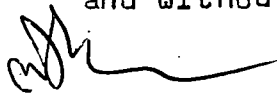


cause notice dated 27.3.2001 was issued to the applicant to appear before DoE to present his case on 20.4.2001. DoE on 18 appeared before/20.4.2001 and sought some time and also some clarifications which were given to him. 18 appeared before DoE again on 9.8.2001 and presented his case. DoE after hearing the applicant and taking into consideration the facts and circumstantial evidence of the case concluded that the quarter is partially sublet and ordered that action may be taken against the applicant as per para 2 of charge-sheet dated 27.3.2001. A decision to this effect was taken by DoE on 9.8.2001 and the impugned cancellation order dated 16.8.2001 was issued to the applicant. Applicant filed OA 2246/2001 seeking directions to DoE to initiate eviction proceedings against his sub-tenant. That OA was dismissed in limine by order dated 30.8.2001 with the observation that 'the prayer made is misconceived as we do not find any provision which would enable us to give the directions sought'. In the meantime, applicant preferred an appeal to DoE (appellate authority) against the cancellation order dated 16.8.2001. DoE after hearing the applicant on 11.10.2001 and after taking into consideration the facts and evidence of the case, rejected the appeal vide order dated 6.12.2001 and the applicant was duly informed on 7.12.2001. Since the applicant had failed to vacate the quarter even after the rejection of his appeal, the case was referred to the Estate Officer for initiation of proceedings under PPE Act, 1971. The applicant filed a representation to DoE for review of his case. Observing the principles of natural justice, DoE decided to reopen the case permitting the applicant to appear before her on 25.5.2002 to present his case. Pending decision on the review petition of the applicant by the DoE, Estate Officer closed the proceedings with liberty to the applicant to file a fresh case on the same ground, if so advised.

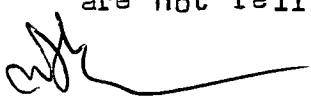


4. Applicant appeared before DoE on 25.2.2002 and presented his case. DoE also called the unauthorised occupant of the house as witness and she gave her statement on 4.4.2002. Taking into consideration the facts and circumstantial evidence of the case, DoE rejected the review petition by order dated 19.4.2002 and the applicant was informed about the rejection on 26.4.2002. He has been asked to vacate and hand over vacant possession of the quarter in question to local CPWD enquiry under intimation to the respondents. Since the applicant has failed to vacate the quarter, eviction proceedings before the Estate Officer under PPE Act, 1971 has been initiated against him.

5. During the course of the arguments, the applicant has submitted that he had earlier filed OA 502/2000 challenging the cancellation orders dated 22.10.1999 and 27.10.1999 and this Tribunal vide its order dated 2.3.2001 quashed and set aside these orders. This Tribunal further held that the applicant shall be liable to pay normal rent and other charges for the relevant period as per the relevant rules. According to the applicant, he has paid the normal licence fee for the said quarter for the entire period from October, 1998 to April, 2001. For the subsequent period, licence fee is being regularly deducted from his salary. He has stated that he had sent an intimation letter dated 15.4.2000 about sharing of Government accommodation, giving details of his family members and the family members of Shri Ajay Kumar to the second Respondent, duly acknowledged by the latter on 27.4.2000. According to him, the respondents have passed the impugned order dated 16.8.2001 without following the established procedures to conduct the enquiry and without adhering to the principles of natural justice.



6. On the other hand, respondents would submit that the impugned order dated 16.8.2001 relates to cancellation of allotment of the accommodation with consequential penalties on the ground of sub-letting while OA 502/2000 disposed of on 2.3.2001 relates to a different cause of action. The applicant has failed to vacate the quarter after rejection of his appeal as well as review petition by the competent authority and hence the matter has been referred to the Estate Officer for initiation of eviction proceedings under PPE Act, 1971. In view of the law laid down by the apex court in CA Nos. 1301-4/90 titled UOI Vs. Rasila Ram 2000 JT(10) 503 and the Hon'ble Delhi High Court in Smt. Babli & Anr. Vs. Govt. of NCT of Delhi, 2002 DLT (95) 144, this Tribunal has no jurisdiction to entertain the present OA and therefore the same deserves to be dismissed and interim order deserves to be vacated. In regard to applicant's contention that he had sent intimation letter about sharing of government accommodation, learned counsel for the respondents has drawn our attention to the note dated 6.12.2001 of the Director of Estates in which she has mentioned that 'There is nothing on record to prove that prior intimation of sharing of Government accommodation, as required under the Allotment Rules, purported to have been dispatched to the Directorate of Estates by the appellant from UK. The documents given by the appellant in this respect at the time of hearing before me are not admissible, as they are not reliable".



7. We find from the papers enclosed by the respondents with their reply that inspection of the quarters has been made on 15.3.2001 and the applicant was not found living in that house. On the other hand, one Mrs. Veena Kumari was found living in the house. It was also found that one Shri Chaman Lal, working as Tailor in Karol Bagh, was living in the outhouse of the Qr. No. 16D, Dev Nagar. Both the occupants, i.e. Smt. Veena Kumari and Shri Chaman Lal, of the quarter No.16D, Dev Nagar have stated <sup>fact</sup> this/in writing. Smt. Veena Kumari has stated that there has never been any communication between her and the applicant's wife because she never met her. In token of advance rent, she had paid a sum of Rs.15,000/- through Cheque No.921992 dated 12.6.2000 and the amount was debited from her account No.12801 at Punjab National Bank, Rajindra Place and credited in the account of applicant, No.6503 at Punjab & Sind Bank Extension counter, Khalsa College, Dev Nagar. She has stated that she along with her family had been residing in the quarter on a monthly rent of Rs.3700/-. She has also stated that her family had taken two rooms and one kitchen on rent since June, 2000 and had vacated the quarter on 7.2.2002. The outhouse was given on rent to Shri Chaman Lal by the applicant himself and not by her.

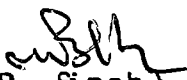
8. Shri Chaman Lal has stated in the inspection report that he had been paying a monthly rent of Rs.1500/- since June, 2000 to the applicant. He has further stated that he has paid Rs.20,000/- as advance to the applicant.

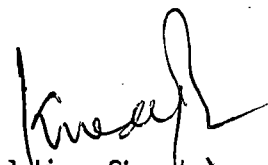


9. While appearing before the Director of Estates, the applicant has stated that there was necessity for keeping sharer as there were murders and robbery in that area and there being no male members in the family one sharer who is eligible to share under Rule SR 317-B-21 was accommodated for safety and security consideration in the house, under intimation to DoE. In other words, the applicant does not deny the fact that there were two different families in his house D16, Dāv Nagar and the outhouse attached to the quarter. During the course of the arguments, the applicant has admitted that neither of these persons occupying the house/outhouse was his friend or related to him. In OA No.2246/2001 filed by the applicant, he had sought relief praying for direction to initiate eviction proceedings against his sub-tenants. The applicant has also failed to show us any document whereby he had intimated the DoE about sharing of accommodation allotted to him, under the relevant Rules. We find that the applicant, who is holding a senior-level post in the Government, has lowered the dignity of the post and has acted in a manner unbecoming of a Government servant by misusing the government accommodation allotted to him for commercial purpose. Thus he has misused his official position for personal gain by subletting the house and collecting huge rent from his sub-tenants.

10. Therefore, for the reasons recorded above, the OA is totally bereft of merit and is accordingly dismissed. We also direct that action should be taken against the applicant by the respondents as deemed appropriate in accordance with the Rules. Interim relief granted on 2.7.2002 stands vacated.

No costs.

  
(M. P. Singh)  
Member (A)

  
(Kuldip Singh)  
Member (J)