

(A)
Central Administrative Tribunal
Principal Bench: New Delhi

O.A. No. 2695/99

New Delhi this the 12th day of October, 2000

Hon'ble Mr. V.K. Majotra, Member (A)

Ravinder Kumar
S/o Shri Dharam Singh
R/o Q. No. 374, Type-I,
P.C. Ashok Vihar, Delhi.

-Applicant

(By Advocate: Shri S.K. Gupta)

versus

1. Govt. of NCT of Delhi
through Chief Secretary
5, Sham Nath Marg,
New Delhi.
2. Commissioner of Police,
Police Headquarters,
MSO Building, IP Estate,
New Delhi.
3. Dy. Commissioner of Police (III)
Police Head Quarters,
IP Estate, New Delhi.

-Respondents

(By Advocate: Mrs. Meera Chhibber)

ORDER (Oral)

The applicant has challenged order dated 15.10.99 passed by respondent No.3, Dy. Commissioner of Police, Police Headquarters, New Delhi cancelling the allotment of Quarter No. 374, Type-I, P.C. Ashok Vihar, Delhi with immediate effect and also imposing a sum of Rs. 196/- per month as penal rent from 1.1.97 till the date of vacation etc. The applicant has alleged that the impugned order is illegal, arbitrary and violative of principles of natural justice. This quarter was allotted to the applicant on 13.5.96 on the ground of the illness of his father who was a heart patient. According to the applicant, he was living alongwith his father and niece Anuradha in the said quarter but on 23.9.99, respondents



were issued a show cause notice alleging that he had sub-let the said quarter to one Mr. Vijender Singh who resides in the said quarter with his family. According to the applicant, he replied to the show cause notice denying having sublet the quarter. He has stated that Vijender ^{1b} Singh who is his cousin resides in Ashok Vihar and frequently visits his ailing father. The applicant has alleged that full facts which have been incorporated in the impugned order were not revealed to him in the show cause notice which is against the principles of natural justice.

2. In their counter, respondents have stated that on enquiry, it was found that the applicant and his family were not living in the aforesaid Quarter. One girl Anuradha and her younger sister Shaloo were found in the quarter at the time of the enquiry. They informed that they have been residing in the quarter for the last three years. This fact was endorsed by the neighbours. According to the respondents, in reply to the show cause notice the applicant had admitted that he does not stay in the quarter regularly and his family is also not staying there. They were staying in his native village in U.P. Whereas in his reply to S.C.N, he has stated that Vijender Singh is resident of Village Kirthal District Bagpat but in appeal he is stated to be resident of Ashok Vihar which is misleading. The applicant has made contradictory statements. Whereas on the one hand he has admitted that he alongwith his family stay in the village on the other hand he has stated that he and his father are residing in the Government accommodation. The applicant has filed rejoinder as well.

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3. I have heard the learned counsel of both sides and perused the material available on record.

4. Shri S.K. Gupta, appearing on behalf of the applicant stated that applicant's wife has deserted the applicant; his minor children stay in the village with applicant's mother but the father who was a heart patient used to stay in the Government quarter. Kumari Anuradha aged about 15 years, daughter of Shri Mohan Singh, is his niece and ~~she~~ stays in the said Government quarter to look after his father. His father died recently. Shri Gupta, contended that the allegation that Kumari Anuradha and Shallo were staying in the said Government premises was not disclosed in the show cause notice. Thus, he was not given full opportunity to explain the allegation held against him in the impugned order which is against the principles of natural justice.

5. Smt. Meera Chhibber, learned counsel appearing on behalf of respondents stated that sufficient information ~~has~~ been provided in the show cause notice (Annexure A-4). It had been alleged that the applicant and his family were not residing in the said quarter which had been sublet to one Vijender Singh who is residing with his family in the same. Smt. Chhibber brought out various contradictions in the statements made by the applicant at different points of time.

6. In reply to the show cause notice (Annexure A-5) the applicant stated that 'only my sick father lives there'. In Annexure A-7, which is representation against cancellation of the allotment, it is stated 'my niece

(namely Anuradha) aged about 15 years is also residing with my father to look after him'. Whereas in reply to SCN (Annexure A-5) the applicant has stated 'no one came there to enquire in my presence or my sick father'. In the representation (Annexure A-7) he stated that 'the enquiry officer had told my father during the inspection that you are not authorised to reside in the Government quarter'. Whereas the applicant has stated in his reply to show cause notice that 'Vijender Singh is r/o Village Kirthal District Bagpat', in the representation (Annexure A-7) he has stated 'as regards Vijender he is my relative and residing at H-12 Ashok Vihar, Phase-I'. Whereas in his reply to show cause notice the applicant has referred to 'Vijender Singh is his cousin', the documents submitted by him namely, Annexure A-8 i.e. Ration Card and Gas Connection, they relate to one Bijender Singh. Whereas the applicant has admitted before the Dy. Commissioner of Police as also in his reply to the show cause notice that his family and he stay in the village ^{On applicant's admission}, this fact has not been controverted in his representation as well. ¹⁴ The allegation that the applicant was not residing in the Government accommodation himself and had sub-let the same would have been held to be proved even though no enquiry was held. However, the enquiry was held which confirmed the allegations. Smt. Meera Chhibber relied upon 1999 SCC (L&S) 1288 Dharmarathmakara Raibahadur Arcot Ramaswamy Mudaliar Educational Institution Vs. Educational Appellate Tribunal and Another. It was held that giving opportunity is a check and balance concept that no one's right be taken away without giving opportunity or without enquiry where statute so requires, but this is not necessary where obligations/charges are

admitted and no possible defence is placed before the authority concerned-No enquiry is necessary when one admits one's violations.

7. The contradictions referred to by the learned counsel of the respondents are found to be true on the basis of material in the file. The show cause notice contained sufficient details to make an effective representation ~~there~~ -against. The applicant has been provided full opportunity of defence. He has admitted that the ~~members~~¹ of his family and he are not staying in the Government premises. The claim of the applicant that his father, a heart patient, had been left to the care of a minor female relation in the Government premises cannot be countenanced. The enquiry held by the respondents is sufficient to hold that the said premises had been sublet — and the applicant had failed to explain satisfactorily the contentions raised by him in his defence.

8. Relying on the ratio of Dharmarthmakara Raibahadur Arcot Ramaswamy Mudaliar Educational Institution (supra) and having regard to what is stated above, I do not find any merit in the OA, which is dismissed. No costs.

9. MA-1132/2000 is also disposed of.

V.K. Majotra
(V.K. Majotra)
Member (A)

cc.