

CENTRAL ADMINISTRATIVE TRIBUNAL

PRINCIPAL BENCH

NEW DELHI

OA 2765/99

✓ New Delhi this the 20th day of July, 2000

Hon'ble Smt. Lakshmi Swaminathan, Member (J)

Sikander Ali
S/O Late Sh. Wilayat Ali
R/O 15/96, Lok Nayak Hospital,
Staff Campus, New Delhi-2

(By Advocate Shri U. Srivastava)

..Applicant

Versus

Govt. of N.C.T. of Delhi, through

1. The Chief Secretary,
Govt. of NCT of Delhi, 5 Shamnath
Marg, New Delhi.
2. The P.H.C./Joint Secretary (Medical)
II (Estate Cell), Jawahar Lal Nehru
Marg, New Delhi.
3. The Medical Superintendent
O/O the Medical Superintendent
Lok Nayak Hospital, New Delhi.
4. The Office Superintendent,
Estt-II, O/O the Medical
Superintendent, Lok Nayak Hospital,
New Delhi.

.. Respondents

(By Advocate Mrs. Meera Chhibber)

O R D E R (ORAL)

(Hon'ble Smt. Lakshmi Swaminathan, Member (J)

The applicant, who has been working as 'Mashalchi'
in Lok Nayak Hospital with the respondents, is aggrieved
by the Memo. issued by them dated 14.12.1999 (Annexure A.1).

In this Memo. he has been directed to vacate the quarter
No. 15/96, Type-I, behind G.B. Pant Hospital with immediate
effect, failing which strict action will be taken against
him.

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2. In the OA, the applicant has stated that in 1994, the respondents had issued an order in the shape of notice to him dated 24.4.95 (Annexure A-2), in which it has been clearly stated that after receiving the report from the Survey of the aforesaid house, it was found that certain unauthorised constructions was made in the quarter. The applicant was directed to show cause as to why his allotment in respect of the quarter be not cancelled and market rent be charged thereafter. Shri U.Srivastava, learned counsel has submitted that the applicant had indeed given reply to this show cause notice in which he has, inter-alia, submitted that several other persons in the vicinity have also made such constructions and he has got permission from Sh.Bansi Lal Chauhan, former Executive Councillor and, therefore, there was no illegality in the matter. Learned counsel for the respondents has pointed out that by another Notice dated 9.5.95, the respondents had specifically asked the applicant to produce this permission stated to have been given by Shri Bansi Lal Chauhan, former Executive Councillor (Medical) but no such permission was submitted by the applicant. The respondents, after due consideration of his reply, have passed another Memo. dated 20.6.95 (Copy placed at Ann.A.3).
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In this Memo. the respondents ^{have} stated on the ground that

the applicant had made unauthorised construction in quarter No.15/96, Type-I in contravention of the rule, cancelled the allotment of the said quarter w.e.f.

2.11.1994. They had also directed him to vacate the quarter immediately with a further direction that he is liable to pay market rent, watercharges and other dues mentioned therein.

3. It is also seen from the Memo. dated 16.2.1996 issued by the respondents that the applicant had made further representations on 14.12.1995 and 24-11-1995 regarding the same allegation of unauthorised constuctions in the quarter which has again been considered and rejected. According to the respondents, the information of the applicant that he had furnished was not satisfactory and maintainable as per the allotment Rules and hence the earlier allotment of the quarter was cancelled in the name of applicant on 2.11.1994.

4. The main contention of Shri U.Srivastava, learned counsel for the applicant is that the order dated 14.12.1999 had not been passed by the Estate Officer, as required under the Public Premises (Eviction of Unauthorised Occupants) Act, 1971, which the respondents were required to do. He has also submitted that the required procedure

under this Act has not been followed by the respondents before passing the impugned orders. (5)

5. Mrs Meera Chhibber, learned counsel for the respondents, on the other hand, has submitted that from the records in the file itself, it is apparent that the respondents have indeed followed the necessary procedure for cancellation of the allotment ^{of the} quarter which has not been challenged by the applicant in the present OA. She has also submitted that the application is barred by limitation, as the cause of action, namely, cancellation of the allotment of quarter No.15/96, Type-1 which was earlier allotted to him and the OA is also not maintainable in the present form. She has also pointed out that not even a miscellaneous application for condonation of delay has been filed by the applicant. She has relied on the judgement of the Supreme Court in Ramesh Chander Sharma Vs. Uddam Singh Kamal and ors (AISLJ 2000(2) page 89 and VOI Vs. Wing Commander Hingorani (SLJ(3) 154).

6. I have carefully perused the pleadings and the submissions made by the learned counsel for the parties.

7. From the documents placed on record and the averments made by the applicant himself, it is very ~~much~~ clear that the applicant was well aware that his representations with regard to the unauthorised construction in quarter No.15/96, Type-I has not been agreed to by the respondents. In this regard, it is also clear that the applicant had been afforded ample opportunities to make his representations against the notices issued by the respondents. The respondents, after considering his several representations, had taken a decision to cancel the aforesaid quarter allotted to him by order dated 20.6.1995, on the ground that he has contravened the provisions of the allotment Rules. It is also relevant to note that the applicant has not impugned the cancellation of the quarter and the subsequent orders passed by the respondents dated 1.8.95. I am unable to agree with the contentions of the learned counsel for the applicant that in the circumstances of the case, the respondents have failed to follow the procedure and provisions of the Public Premises, (Eviction of Unauthorised Occupants) Act, 1971. The Memo. dated 14.12.1999, no doubt, has been issued after considerable lapse of time by the respondents, the in which they have taken/follow up action of the orders passed by the Estate Officer under the Act much earlier

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earlier in 1995. That, however, will not give the applicant an enforceable right to continue in the quarter No.15/96, Type-I, in the light of the orders passed by the competent authority earlier.

8. In the facts and circumstances of the case, the sd interim order dated 22.12.1999 which has been continued from time to time stands vacated. As there is not merit in this application, OA is dismissed.

9. At this stage, Shri U.Srivastava, learned counsel prays that the applicant may, atleast be allowed to remain in the quarter for one month more. This is objected to by the learned counsel for the respondents.

10. Taking into account the above facts and circumstances of the case, the applicant is directed to vacate the quarter and hand over vacant possession to the competent authority on or before 7.8.2000.

Parties to bear their own costs.

Lakshmi Swaminathan
(Smt. Lakshmi Swaminathan)
Member (J)

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