

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.329/1999

New Delhi, this 30th day of August, 2000

Hon'ble Smt. Shanta Shastry, Member(A)

Krishan Balmiki
Sweeper, MAMC College
BS Zafar Marg, New Delhi .. Applicant

(By Dr.R.L.Sethi, Advocate)

versus

Govt. of NCT of Delhi, through

- 1. PHC-cum-Jt. Secretary (Health)
Estate Cell, JLN Marg, New Delhi
- 2. Sr. Admn. Officer
MAM College
BS Zafar Marg, New Delhi .. Respondents

(none present)

ORDER(oral)

None present on behalf of the respondents. Applicant has impugned the memorandum dated 12.8.98 of the respondents informing him that his representation dated 8.1.97 has been considered and rejected. Brief facts are that the applicant had filed OA 443/98 to direct the respondents to dispose of his representation dated 8.1.97 against recovery of damage rent amounting to Rs.65,287 for the period from 21.9.82 to 28.2.94 and regular recovery of Rs.1024 p.m. from March, 1994. The said OA was disposed of 26.3.98 with the direction to the respondents to dispose of applicant's representation dated 8.1.97 in accordance with the rules and instructions on the subject within three months from the date of receipt of a copy of the order. Respondents accordingly considered his representation and issued the impugned memo dated 12.8.98.

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2. Learned counsel for the applicant submits that the order passed by the respondents is not a speaking order. It is a mere statement that the representation has been considered and rejected and therefore the order is liable to be set aside. He further submits that the applicant was not in occupation of the quarter No.DII-Type I as alleged on 21.9.82 and yet damage rent has been ordered from that date. He was not given any opportunity of being heard. This is against the principles of natural justice. According to the applicant, the impugned order has been passed without any application of mind as at no stage the allotment was ever cancelled as averred in the impugned order.

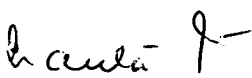
3. Respondents have filed counter. It is seen that quarter No.DII-Type I was allotted to the mother of the applicant Smt. Rajo. This allotment was cancelled w.e.f. 22.7.82 on the ground of unauthorised construction by the applicant and the applicant and his family have been unauthorizedly occupying the said quarter; as per the statement of Smt. Rajo and the applicant who produced a copy of ration card No.538 dated 23.6.89. It has been stated that the representation of the applicant was considered and rejected by the impugned order dated 12.8.98.

4. In the rejoinder, the applicant has however explained that the said quarter was allotted to him from 1.6.86 on superannuation of his mother to whom it was allotted earlier and licence fee was duly deducted from

his salary every month. It has also been contended that the order has been issued without adopting the procedure for cancellation of allotment as prescribed under law and without specific provisions of Sections 4 and 5 of the PPE Act.

5. I have given careful consideration to the pleadings of the learned counsel for the applicant. I do find that the impugned order passed by the respondents is not at all a speaking order as rightly pointed out by the learned counsel for the applicant. I therefore set aside the impugned order and direct the respondents to pass a detailed, reasoned and speaking order in accordance with the rules and instructions on the subject within one month from the date of receipt of a copy of this order.

6. The OA is disposed off accordingly. No costs.


(Smt. Shanta Shastry)
Member(A)

/gtv/