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CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH  
NEW DELHI

OA 522/99

New Delhi this the 21st day of February, 2000

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

Prem Prakash(Postman)  
Quarter 7, Type-I,  
P&T Quarters Dev Nagar,  
Kaol Bagh, New Delhi.

.. Applicant

(None for the applicant )

Versus

1. Chief Post Master General  
Delhi Circle, Deptt. of Post Meghdoot,  
New Delhi-1

2. Sr. Supdt. of Post Offices  
Central Division, Meghdoot Bhawan,  
New Delhi-1

3. Asstt. Director Building  
Delhi Circle  
Deptt. of Posts,  
Meghdoot Bhawan,  
New Delhi.

4. J.E.  
P&T (Civil) Enquiry  
P&T Quarter, Dev Nagar,  
Karol Bagh, New Delhi.

.. Respondents

(By Advocate Sh. K. C. D. Gangwani )

O R D E R (ORAL)

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

The applicant is working as Postman in one of the Post Offices of the respondents at Karol Bagh, Dev Nagar, New Delhi. He had been allotted Govt. accommodation, Quarter No. 7, Type-I, P&T Quarters, Dev Nagar in 1990. He is aggrieved by the cancellation of the allotment of this Govt. quarter by the impugned order dated 19.2.99.

2. According to the applicant, he has been living in the aforesaid Govt. accommodation since 1979 and was allotted the same in his name in 1990, after the death of his father. He relies on the copies of Ration Card, Election Card and CGHS Card (Annexures C, D and E collectively) in which the

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he and members of his family have been shown as resident in that address. He has denied the allegation made by the respondents that he has sub-let the quarter during the relevant period in October, 1998. Admittedly, a show cause notice was issued to the applicant to which he had also replied and denied that he had sub-let the quarter. Applicant has stated in the OA that he has been residing in the quarter in question and therefore, there is no question of any unauthorised sub-letting.

3. I have seen the reply filed by the respondents and heard Shri K.C.D. Gangwani, learned senior counsel for the respondents.

4. The respondents in their reply have submitted that consequent upon the receipt of complaints about sub-letting of the Govt. quarter by the applicant, detail enquiries were made through SSP's, New Delhi Central Division. According to them, a report was sent by the checking staff dated 30.9.98 which has been submitted by the learned counsel and is taken on record. Page 4 of this report refers to the applicant's case. In this report, it has been stated that the applicant had flatly denied sub-letting the quarter but they had found photo copy of telephone bill of phone No. 581745 in the name of one Sh. Mohan Lal Sharma for the period of June, 1998 with the address of this quarter. Learned counsel for the respondents has submitted that later on, the applicant in his reply to the show cause notice, has submitted that the telephone was gifted to him by his relative and submitted an affidavit from Sh. M. L. Sharma. Learned counsel has, however, submitted that the competent authority has not accepted this position stated by the applicant and had come to the conclusion based on the facts and circumstances of the case that the Govt. quarter allotted to the applicant has been sub-let, on the basis of which they had proceeded to take further action. According to the respondents, the fact of the telephone in the name of Sh. M. L. Sharma at the aforesaid address is sufficient to show that the applicant had sub-let the quarter. Sh. K. C. D. Gangwani,

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learned senior counsel further submits that when the checking staff visited the Govt. quarter in question, the applicant was found there on 24.9.98 but the telephone bill relied upon by him also shows that the house had been sub-let. Learned counsel submits that as there is evidence on which the competent authority had arrived at the conclusion, it will therefore, not be appropriate for the Tribunal to interfere in the matter.

5. I have also perused the rejoinder in which the applicant has reiterated the facts given in the OA. He has also relied on the Ration Card and Election Identity Card, to which the learned counsel for the respondents states that these documents only show the permanent address but that does not rule out the fact of sub-letting in the present case.

6. From the facts given above and the documents on record, it is clear that the applicant has been given reasonable opportunity of hearing to put forward his case before the competent authority which passed the impugned cancellation order dated 19.2.1999. The applicant has himself stated that a show cause notice was issued to him and he has also submitted his reply. From the report of the checking staff, it is noticed that they found photo copy of telephone bill in the name of one Shri M.L.Sharma for June, 1998 in which there was the address of the Govt. quarter which had been allotted to the applicant. The competent authority, noting these facts had taken a decision that the applicant had sub-let the quarter and therefore, it cannot be stated in the circumstances of the case that it is either arbitrary or unreasonable to warrant any interference in the matter.

7. It is settled law that while exercising the power of judicial review, the Tribunal does not sit as an appellate Court to review the decision of the competent authority on

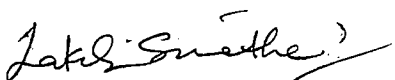
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the merits of the case but of the decision making process.

In such case no interference is called for unless the decision is vitiated by arbitrariness, unfairness, illegality or irrationality i.e. when the decision is such as no reasonable person on proper application of mind could take or on procedural impropriety (See the judgement of the Hon'ble Supreme Court in Tata Cellular Vs. Union of India (1994(6) SCC 651) and Union of India and Anr. Vs. G.Ganayutham (1997(7) SCC 463). In the present case, the applicant had been given a reasonable opportunity of putting forward his case before the competent authority and that decision does not appear to be either illegal or unreasonable in the circumstances of the case to justify any interference.

8. In the result, for the reasons given above, I find no good grounds to set aside the impugned order dated 19.2.99. Accordingly ad interim order dated 10.3.99 stands vacated. In the circumstances of the case, the applicant is directed to hand over vacant possession of the aforesaid Government quarter to the concerned authority within six weeks from today i.e. on or before 3.4.2000. No order as to costs.

  
(Smt. Lakshmi Swaminathan )  
Member (J)

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