

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

Original Application No.1357 of 1998

✓New Delhi, this the 9th day of November, 1998

Hon'ble Mr. N. Sahu, Member(Admnv)

S.I.Chander Prakash, S/o Shri
B.D.Sharma, R/o 134, Police Colony,
Hauz Khas, Delhi. Presently in Excise
Department, Government of Delhi, New
Delhi.

(7)
-APPLICANT

(By Advocate Mrs. Meera Chhibber)

Versus

1. Union of India, through Commissioner of Police, Police Headquarters, M.S.O. Building, I.P.Estate, I.T.O., New Delhi.
2. Deputy Commissioner of Police, Headquarter-III Police Headquarters, M.S.O. Building, I.P.Estate, I.T.O., New Delhi.
3. Commissioner of Excise Deptt., Govt. of N.C.T. of Delhi, 2, Battery Lane, Rajpur Road, Delhi.

(By Advocate Shri Raj Singh) -RESPONDENTS

ORDER (Oral)

By Mr. N.Sahu, Member(Admnv)

The prayer in this Original Application is to quash orders of the Deputy Commissioner of Police, Headquarters III respondent no.2 dated 9.5.96, 20.6.1996 and 2.7.1998 under which allotment of Government quarter No.134, Police Colony, Hauz Khas, New Delhi was cancelled and the applicant was ordered to vacate the premises.

2. The above prayer is on the following facts - the applicant, a Sub Inspector in Delhi Police, was allotted a Govt. quarter No.134, Police Colony, Hauz Khas, New Delhi. He was selected for deputation to Excise Department of Govt. of NCT Delhi, in

February, 1996. The pleadings show that he was allowed retention of the quarter of the Delhi Police pool. There is also a mention of the practice of permitting people to retain accommodation when they are sent on deputation on payment of normal licence fees till alternative accommodation is allotted. The applicant's case was recommended even by the Excise Department by a specific letter to respondent no.2 to permit the applicant to retain his accommodation. No doubt on 20.6.1996 the applicant was directed to vacate the quarter, but later on, on subsequent representations no action was taken pursuant to the order dated 20.6.1996. The applicant had pointed out to respondent no.2 the notification of the Delhi administration dated 1.11.1978 (Annexure-P-VII) whereby officials are allowed to retain the quarter till alternative accommodation is allotted, on payment of licence fees on normal rates. Suddenly, after lapse of a year or so, the applicant was directed to vacate the quarter vide Annexure P-VIII dated 2.7.1998. At this stage he has given instances of persons on deputation who have been allowed to retain the Government accommodation till alternative accommodation was allotted.

3. The learned counsel for the applicant cited a decision of the Hon'ble Supreme Court in the case of S.C. Bose Vs. Comptroller and Auditor General of India and others, 1995 Supp (3) SCC 141 dealing with the case of an allottee of a Government accommodation in a departmental pool who having been transferred became disentitled to such accommodation. In the

absence of an allotment of an accommodation from a general pool he continued to stay in the old accommodation in the departmental pool. In such circumstances, their Lordships held that recovery of penal rent and damages for continued occupation of the accommodation in the departmental pool was unjustified. The authority in the case of S.C.Bose(supra) supports the claim of the present applicant for not charging penal rent till alternative accommodation is made available to him. When asked to point out legal rights of the applicant, the learned counsel has brought to my notice the order of the Delhi administration dated 1.11.1978 (Annexure-P-VII), an extract of which is reproduced below -

It has been decided by the Administration to make the following additions in the 'Delhi Administration Allotment of Government Residences (General Pool) Rules, 1977, as Rule 19 (4) namely :-

19(4) (a) When an employee of a department under Delhi Administration, who have its separate pool of accommodation, is transferred, proceeds on deputation on a higher post in another department under Delhi Administration, and is in occupation of Govt. residential accommodation will be eligible to retain the present accommodation on payment of licence fee on normal rate under FR 54-A, till an alternative accommodation, according to the rules, is allotted to him from the Department where he has been posted. This will also be applicable in the case of officers/ officials of Police Deptt."

transcript

4. The learned counsel in her rejoinder also stated that in another case the DCP vide his letter dated 31.7.1998 (Annexure-I to the rejoinder) had informed the Chief Secretary that two Police officials were permitted to retain Government

accommodation; and requested that two Type-II Government quarters may be placed at the disposal of the Police pool.

(10)

5. Learned counsel Shri Raj Singh on behalf of the respondents submitted that this Original Application can be disposed of on the basis of the above proposal given by the Police Headquarters to the Chief Secretary dated 31.7.1998.

6. In view of the submissions made by the learned counsel for the applicant, the applicant has a legal right conferred, by the notification at Annexure -P-7, extracted above, to retain the accommodation presently occupied by him till an alternative accommodation is allotted to him. While the learned counsel for the respondents submitted that the relief may be made in terms of the letter dated 31.7.1998 I would say that it is open to the respondents to spell out such way as would help the applicant to get an alternative accommodation either in the way they resorted to by their letter dated 31.7.1998 or by some other process by exchange of quarters or making a special request, but in the light of the discussion above, throwing out the applicant out of the present accommodation would amount to (i) a case of discrimination in view of similar facilities allowed to other similarly situated officials, and (ii) going back on the promise made in the notification at Annexure-P-VII extracted above. The order of the Hon'ble Supreme Court may not be a direct authority, but it impliedly

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supports the claim that till an alternative accommodation to which the applicant is entitled is allotted to him, he shall continue to retain the old accommodation.

7. In the result, the O.A. is allowed. The impugned orders are quashed. No costs.

Narasimha
(N. Sahu)
Member (Admnv)

rkv.