

Central Administrative Tribunal
Principal Bench
New Delhi

O.A. No. 176/98

Decided on 3.12.1998

Tulsi Das Applicant
(By Advocate: Shri H.K.Gupta)

Versus

Union of India Respondents
(By Advocate: Shri S.M. Arif)

CORAM

HON'BLE MR. S.R. ADIGE, VICE CHAIRMAN (A)

1. To be referred to the reporter or not? YES
2. Whether to be circulated to other benches of the Tribunal? No

Rulings referred

AIR 1966 SC 1313;
AIR 1963 SC 395;
1994 (25) ATC 293;
1993 (23) ATC 113;
AIR 1980 Karnataka High Court 186
1990 (2) Delhi Lawyer DB 98.

S.R. Adige
(S.R. Adige)
Vice Chairman (A)

(15)

CENTRAL ADMINISTRATIVE TRIBUNAL PRINCIPAL BENCH

O.A.No.176/1998

M.A.No.162/98

New Delhi: Dated this the 3rd day of DECEMBER, 1998.

HON'BLE MR. S. R. ADIGE, VICE CHAIRMAN (A)

Tulsi Das S/o Shri B. Lal,
R/o 7/153, ODA Flats, Madangir,
New Delhi-62

..... Applicant

(By Advocate: Shri H.K. Gupta)

Versus

Union of India,
through
Secretary

to the Govt. of India,
Ministry of Urban Affairs,

Nirman Bhawan,
New Delhi.

2. Director of Estates,
Govt. of India,
Nirman Bhavan,
New Delhi.

3. Director General (Works) OP WD,
Nirman Bhavan,
New Delhi.

4. Director,
Intelligence Bureau,
(MHA),
North Block,
New Delhi

..... Respondents.

(By Advocate: Shri S.M. Arif)

ORDER

HON'BLE MR. S. R. ADIGE, VICE CHAIRMAN (A).

In this OA filed on 13.1.98 applicant seeks a direction to respondents to allot him general pool accommodation as per his entitlement in lieu of Qr.No. S-V/521, Pushp Vihar and to fix responsibility for the allegedly arbitrary and illegal eviction of his family from the aforesaid quarter and compensate him for the harassment caused to him.

2. Applicant who as ACIO-I (Tech) I.B.MHA

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New Delhi was the allottee of the aforesaid quarter, was transferred to Nagaland in 1991. As per rules and executive instructions, he was allowed to retain the aforesaid quarter for the residence of his family during his posting in Nagaland. The relevant records disclose that upon a complaint being received that the premises had been sublet to a person who was doing business as a Cable Operator, a team consisting of 2 officers of Asstt. Director's rank inspected the premises on 19.1.95. Their report of aforesaid date discloses that they found it to be occupied by one Shri Rajender Kumar, a Cable Operator and his mother, who had no documents to establish the validity of their occupancy, and could give no information about the allottees and hence concluded that it was a case of full subletting. It is true that no signature of the occupants or indeed of any neighbours was taken on the aforesaid report dated 19.1.95, but applicant has not specifically alleged any malafides against the aforesaid 2 ADs; it is not a case of previous enmity and hence prima facie there are no good grounds to impeach the correctness of the contents of the aforesaid report dated 19.1.95 ^{subm} submitted by ^{the} two officials in the performance of their duty.

3. A show cause notice dated 15.2.95 as to why action should not be taken against applicant was issued by Dte. of Estates to be served through his parent office which was forwarded to applicant by his parent office on 8.3.95 (Annexure-A3). Applicant's wife appeared before the Dy. Director for personal

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hearing on 23.3.95. She showed him the ration card containing the names of applicant, his wife and three daughters. Although applicant has two more daughters, he states that they are married and their names are on their husband's ration cards. Respondents state in reply, to which there is no specific denial in rejoinder, that applicant's wife did not produce the CGHS card, stating that the same was deposited in applicant's office upon his transfer. Although applicant claims that the family members might have been away for visiting relatives, shopping etc. on the date the inspection is alleged to have taken place, the Dy. Director by a detailed order accepted the inspection report that it was a case of subletting, because despite the family being large none of its members were found in the premises during inspection and instead it was found occupied by a cable operator as mentioned in the complaint itself.

4. Accordingly the competent authority cancelled the allotment, vide order dated 7.4.95 (Ann. R-1) and debarred applicant from further allotment for five years. Copies of the aforesaid order were sent not only to applicant at the aforesaid address, but also to the Administrative Officer, I.B., New Delhi as well as the Vigilance Officer, I.B., New Delhi. This order specifically provided that if applicant had any grievance against the same, he could file an appeal against it within 60 days. This order was issued under

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Supplementary Rules 317-B-20 and 317-B-21 to the General pool Rules, 1963. In rejoinder to the respondents' reply to the brief facts of the case, applicant does not deny receipt of the aforesaid cancellation order dated 7.4.95 and if he did receive it there is no explanation ^{why no} ^{was filed,} ~~appeal~~ ^{as} was provided in the cancellation order, if indeed the contents of that order were incorrect.

5. On receipt of a copy of the cancellation order in the Litigation Section of the Directorate of Estates, notice u/s 4(1)PP (EUO) Act was issued calling upon applicant to show cause under Section 4(2)(b) by 11.8.95 as to why he should not be physically evicted from the premises. There is an endorsement dated 31.7.95 by the process server to indicate that a copy of this notice was pasted on the premises, and there is also the signature of one Rajinder and below that is the word 'kirayadar'.

6. As no reply was filed by applicant, notice u/s 5(1) PP(EUO) Act was issued on 14.8.95. The endorsement at the back of that notice is dated 24.8.95 and states that the premises were found padlocked upon which the notice was pasted on the door.

7. Thereupon an order u/s 5(1)PP (EUO) Act was issued for physical eviction of the occupants of the premises. There is an endorsement on the

reverse of the aforesaid order which states that on 25.9.95, the team which went to enforce the aforesaid order found that the door of the quarter was found padlocked, and the neighbours stated that the occupants had vacated the premises with their belongings. Accordingly the lock was broken open in the presence of the local CPWD Officials and was found empty, upon which vacant possession was taken and then handed over to the CPWD officials.

8. Applicant's counsel has alleged that the impugned action of the respondents is illegal, arbitrary and malafide and has cited a number of rulings to support his contentions including AIR 1966 SC 1313; AIR 1963 SC 395; 1994 (26) ATC 293; 1993 (23) ATC 13; AIR 1980 Karnataka High Court Page 186 and 1990 (2) Delhi Lawyer DB 98.

9. I have considered the matter carefully. The recital of the aforesaid facts at some length makes it clear that respondents' action is not arbitrary nor malafide, and indeed there is no illegality, irregularity, impropriety or infirmity that can be detected in their action to warrant judicial interference. Applicant has not succeeded in satisfying me that he had not sublet the aforesaid premises, and the very fact that he chose

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to file this O.A. well after two years of the
impugned action, is fatal to his claims. The
rulings relied upon him have, therefore, no
application to the facts and circumstances of this
particular case.

10. In the result this O.A. is dismissed. No
costs.

S.R. Adige
(S.R. ADIGE)
Vice Chairman (A)

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