

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
NEW DELHI

O.A. No.1794/98

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T.A.No.

DATE OF DECISION 30.3.2000

Nanak Chand & Anr.

....Petitioner

None

....Advocate for the  
Petitioner(s)

VERSUS

Union of India & Ors.

....Respondent

None present.

....Advocate for the  
Respondents.

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

The Hon'ble

1. To be referred to the Reporter or not Yes

2. Whether it needs to be circulated to other  
Benches of the Tribunal? No.

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

Central Administrative Tribunal  
Principal Bench

O.A. 1794/98

New Delhi this the 30th day of March, 2000

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

1. Nanak Chand,  
S/o Shri Udal Ram,  
R/o 588/3, Pushpa Vihar,  
Delhi-17.

2. Rohtash,  
S/o Shri Nanak Chand,  
R/o 588/3, Pushpa Vihar,  
Delhi-17.

... Applicants.

None present.

Versus

Union of India through

1. The Director of Estates,  
Ministry of Urban Development,  
Nirman Bhawan, New Delhi.

2. The Executive Engineer,  
ACCD (III) Division,  
Nehru Stadium, New Delhi.

... Respondents.

None present.

O R D E R (ORAL)

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

The applicants have challenged the inaction of the respondents in not regularising the Government Accommodation, i.e. R/o Qr.No.588, Sector 3, M.B. Road, New Delhi, earlier allotted to Applicant 1 in the name of applicant 2.

2. The brief relevant facts of the case are that Applicant 1 while serving as Peon in the University Grants Commission (UGC) was allotted a Government accommodation at J-208, Sewa Nagar, New Delhi, in the year 1985. Thereafter, he had applied for a change of accommodation on ~~the~~ medical grounds which was agreed to by Respondent 1. Thereafter, the respondents had allotted the aforesaid accommodation at M.B.

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Road, New Delhi. According to them, they had done so after handing over the vacant possession of the previous accommodation, that is, Qr.No.J-208, Sewa Nagar, on 30.9.1995. Applicant 2, son of applicant 1 had joined services with Respondent 2 in 1989 as Peon and was sharing both the accommodations with the father without claiming any House Rent Allowance (HRA). Applicant 1 retired on 30.4.1997. Thereupon, he had requested the respondents to regularise the accommodation at M.B. Road in the name of applicant 2, as according to the applicants, they had fulfilled all the eligibility conditions for this purpose.

3. The applicants have filed MA 1920/98 for permission to file a joint application. In the facts and circumstances of the case, that M.A. is allowed.

4. From the records, it is seen that applicant 1 had made<sup>a</sup> number of representations to Respondent 1, in which he has stated, inter alia, that although he had handed over vacant possession of Qr. No.J-208, Sewa Nagar, on 18.11.1995 to the CPWD Inquiry Office at Sewa Nagar, unfortunately he has not been able to get any document from them to show this fact. He has also submitted that he had occupied the quarter at M.B. Road on 30.9.1995 and he had not received any notice from the Director of Estates about the non-vacation of the previous quarter which has been noted in his representation dated 24.9.1997. The applicants have also relied on "No Dues Certificate" issued by the Delhi Electricity Supply Undertaking (DESU) dated 15.11.1995, certifying that there was

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no dues against applicant 1 against Qr. No. J-208, Sewa Nagar as he has paid his final electric bill upto the period 3.11.1995.

5. Applicant 1 has also relied upon two letters addressed by him to the Secretary, University Grants Commission dated 9.10.1995 and 13.10.1995 (Annexure A-4) in which he has informed them that he has now occupied the Government quarter at M.B. Road after he has got a change of accommodation from Sewa Nagar and has requested them to note the change as well as issue a new Identity Card at the new address.

6. The applicants have also filed rejoinder to the replies filed by the Respondents in which they have reiterated the facts, including the fact that they have, in fact, vacated the Government Quarter at Sewa Nagar in 1995 before occupying the changed quarter at M.B. Road on 30.9.1995. In connection with the several representations made by ~~the~~ applicant 1 to the authorities under Respondent 1, it is noted from the Annexure A-2 letter dated 12.2.1998 that the Director of Estates (II) had issued a letter to Respondent 2 to issue vacation report of the Sewa Nagar house which is stated to have been vacated by the applicants on 18.11.1995. However, the applicants have stated that they have not been able to procure this vacation report of the Sewa Nagar House, which fact has also been noted in his representation made in September, 1997.

7. The respondents in their reply have controverted the above allegations made by the applicants. According to them, applicant 1 was allotted Qr. No. 588, M.B. Road on

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30.9.1995 in lieu of Qr. No. J-208, Sewa Nagar on in turn change basis. According to them, as per the Rules, he was required to vacate the quarter within 48 hours from the date of his occupation of the other quarter in M.B. Road. They have further submitted that applicant 1 was physically evicted from Qr.No.J-208, Sewa Nagar on 4.5.1999 and hence regularisation of the allotment of the quarter in the name of his son, applicant 2, can be considered only if the arrears of damages amounting to Rs.62134/- for the period from 1.10.1995 to 4.5.1999 are cleared by the applicants. This has, however, been denied by the applicants. In the rejoinder, they have submitted that it was only for the first time after the O.A. has been filed on 14.9.1998 that the respondents have raised this amount of damage rent mentioned in the counter reply for the period from 1.10.1995 to 4.5.1999.

8. In the reply filed by Respondent 2, they have submitted that as per the record at CPWD Inquiry Office at Sewa Nagar, the possession of Qr. No. J-208, Sewa Nagar was not handed over by applicant 1 on 30.9.1995 and no formalities in this regard were completed by him. They have also submitted that there is some inconsistency in the submissions made by the applicant, namely, that why he has stated that he gave vacation certificate to Respondent 1 and thereafter, the alternate accommodation i.e. Qr. No. 588, Sector 3, M.B.Road, was handed over to him, whereas on the other hand, in his letter dated 11.9.1997, he states that he has been asking for the vacation slip from Respondent 2. They have also stated that in the letter of applicant 1 dated 11.9.1997 he has stated the date of surrender of accommodation at Sewa Nagar as 18.11.1995 which date is, therefore, contradictory. According to them, it is mandatory to obtain the "No Dues

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"Certificate" from DESU before actually vacating the quarter and for issue of vacation slip. They have submitted that no such record is available of vacation of the Qr. No. J-208 at Sewa Nagar Inquiry Office even after applicant 1 had obtained "No Dues Certificate" from DESU. They have also submitted that as per the procedure, the copy of the vacation slip is issued immediately to the allottee and the Quarter at Sewa Nagar has also not been locked by the Inquiry Office at that place. In the circumstances, the respondents have submitted that the O.A. may be dismissed and the interim order passed by the Tribunal may be vacated. The Tribunal by interim order dated 24.9.1998 had restrained the respondents from forcibly evicting the applicants from <sup>the</sup> premises in question, that is, the quarter at M.B. Road.

9. I have carefully perused the pleadings and documents on record.

10. From the facts mentioned above, it is seen that on the one hand, the respondents have contended that under the relevant Rules and instructions allottee is required to vacate the previous quarter allotted to him within 48 hours from the date of occupation of the new quarter and at the same time, they have also stated that even though the applicant 1 was allotted the Government quarter at M.B. Road on 30.9.1995 in lieu of the quarter at J-208, Sewa Nagar, he had to be physically evicted from the Sewa Nagar quarter on 4.5.1999. The respondents were well aware that the applicant was having the earlier allotment of the Government quarter at Sewa Nagar because they themselves have stated that the other quarter at M.B. Road was allotted to him in lieu of the earlier quarter on "in turn change basis". That being so, why the respondents

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took nearly 4 years to physically evict applicant 1 and his family from the Sewa Nagar quarter on 4.5.1999 is not satisfactorily explained by the respondents. It is also relevant to note that the O.A. has been filed on 14.9.1998 and the reply of Respondent 1 has been filed on 15.2.2000 wherein these facts have been stated. In the meantime, it is seen from the records, that the applicant has been making several representations to the authorities in which he has, inter alia, stated that he has no record to show that the quarter at Sewa Nagar had been vacated by him although he has maintained that the same has been handed over to the CPWD Inquiry Office at Sewa Nagar in November, 1995. The contention of Respondent 2 that there is some discrepancy in the date(s) which has been stated by the applicant when he has vacated the quarter may be correct, but the important question is whether the applicant had, in fact, vacated the quarter No. J-208, Sewa Nagar in November, 1995, as contended by him or not.

11. In this connection, the applicant has relied on "No Dues Certificate" issued by the DESU on 15.11.1995. Respondent 2 in their reply have themselves stated that this certificate was mandatory before actually vacating the quarter and before issuing the vacation slip. If that is so, some meaning has to be attached for issuing <sup>the</sup> "No Dues Certificate" to the applicant on 15.11.1995, when admittedly the applicant had been allotted an alternate accommodation at M.B. Road on 30.9.1995. These facts also show that the applicant had not vacated the quarter at J-208, Sewa Nagar within 48 hours from the date of occupation of the new accommodation, but in any case <sup>the</sup> "No Dues Certificate" issued by the DESU cannot be ignored. It is also noticed that applicant 1 has been making

several representations to Respondent 1 in 1997-98 informing them about the vacation of the quarter at Sewa Nagar and handing it over to the CPWD Inquiry Office. The respondents are also silent as to what rent, if any, they have been recovering from the applicants in respect of the quarter at Sewa Nagar during the intervening period till they say that they got it evicted on 4.5.1999. In the circumstances of the case, it is not clear as to how the respondents allowed the applicant to occupy Qr. No. 588, Sector 3, M.B. Road while, according to them, he was still in occupation of the earlier accommodation allotted to him at Sewa Nagar. These facts have not been satisfactorily explained by the respondents in the replies and, in particular, the reason why they had not taken any action to evict the applicants from the Quarter at Sewa Nagar, when they very well knew that they had already allotted him an alternate accommodation which he has already occupied w.e.f. 30.9.1995. The applicant has also alleged in his several representations that some foul play and trick has been played on him by the employees of CPWD by not issuing the vacation slip of Quarter at J-208, Sewa Nagar, even though he had physically handed over the same to the authorities. He has also prayed for an inquiry to be held which apparently has not been done or any action taken in pursuance of the letter dated 12.2.1998 issued by Respondent 1.

12. In the facts and circumstances of the case, O.A. is disposed of with the following directions:

- (a) Respondents to reconsider the case of the applicants for allotment of Qr. No. 588, Sector 3, M.B. Road, in the name of applicant 2 in accordance with the relevant rules and instructions. Prior to this, they should conduct a thorough inquiry as to how

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the applicants were allowed to occupy two Government quarters during the relevant period from 1.10.1995 to 4.5.1999 and also take into account the observations made above, including the "No Dues Certificate" issued by DESU on 15.11.1995;

(b) In case the contention of applicant 1 is found correct that he had vacated the Quarter at Sewa Nagar in November, 1995, the question of payment of penal rent for the subsequent period will not arise. Respondents shall also keep in view the fact as to how they had allotted two Government quarters to the same person and how they were recovering the due rents for these two quarters as per the Rules during the relevant period from November, 1995 - May, 1999;

(c) Necessary action in this regard shall be taken as early as possible, but in any case not later than two months from the date of receipt of a copy of this order, with intimation to the applicants;

(d) In the peculiar facts and circumstances of the case, in case an adverse decision is taken by the respondents against the applicants, they shall not physically evict them from Quarter No. 588, Sector 3, M.B. Road, New Delhi for a period of two months from the date of despatch of the communication of their order to the applicants.

No order as to costs.



(Smt. Lakshmi Swaminathan)  
Member(J)

'SRD'