

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

Original Application No. 576 of 1998

New Delhi, this the 18th day of November, 1998

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

Akshay Kumar s/o Sh. Akhil Lal, r/o
255, Mohammadpur, New Delhi -APPLICANT

(By Advocate Shri A.K. Trivedi, proxy
for Shri Yogesh Sharma)

Versus

1. Union of India through the
Secretary, Ministry of Urban
Development, Nirman Bhawan, New
Delhi.

2. The Director, The Directorate of
Estate, Nirman Bhawan, New Delhi.

3. The Deputy Director of
Horticulture, Central Division,
CPWD, I.P. Bhawan, New Delhi. -RESPONDENTS

(By Advocate Shri Rajeev Bansal)

O R D E R

By Mr. N. Sahu, Member(Admnv) -

In this Original Applicant the applicant impugns an order dated 2.3.1998 and a show cause notice dated 16.8.1997. By these two orders the applicant was directed to hand over the vacant possession of the premises failing which he would be liable to eviction.

2. The applicant is a Senior Mali in the Office of respondent no.3. An inspection team visited the quarter no. 255, Mohammadpur allotted to the applicant on 4.7.1997. The report of the inspection team is at Annexure-R-1 to the counter. The inspection team found that the members of the applicant's family were not present. On the contrary, they found one Smt. Angina Chandra, w/o

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Shri Vinod Chandra, working as a building contractor, with Master Boby studying in Class XII, D.A.V. College, were present in the premises. Several opportunities were given which were not availed of but on 9.9.1997 the applicant appeared before the Deputy Director. He could not give any proof of his relationship with these persons.

3. In a complaint received by the Directorate, the complainant supplied a photo stat copy of the ration card no. 248676 showing that the applicant was residing in his private accommodation at C-22, Gulmohar Park, New Delhi. The complainant had also supplied a copy of the election card to the effect that the applicant did not reside in the allotted quarter at Mohammadpur. Before the Deputy Director the applicant could not explain about the ration card and election card which showed that he resided at Gulmohar Park. The appellate authority heard him at length. He produced CGHS card and cooking gas card in support of his claim that he resides in the Government accommodation. Very rightly, Shri Rajeev Bansal, learned counsel for the respondents pointed out that these papers were prepared after the date of inspection by the staff of the Directorate, namely, 4.7.1997. In the above circumstances the impugned order was passed.

4. The grounds raised by the learned counsel for the applicant only referred to the CGHS card, ration card, school certificate and the cooking gas certificate. As pointed out above, no reliance can

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be placed on these documents because they were prepared after the date of the inspection. In fact the cooking gas card was dated 3.10.1997. (13)

5. The next ground taken by the applicant is that no proper show cause notice was given to him before cancellation. This ground has no merit. In fact two opportunities were given but the applicant did not respond. Even so, the Deputy Director heard him when the applicant approached him on a date not officially informed to him before passing the order. The appellate authority also heard him at length. It is very clear to my mind that the applicant has been properly heard before the impugned orders were passed. The third ground taken was that the survey report was not communicated to him. It is not necessary under law to communicate the survey report to the applicant.

6. I have carefully considered the submissions of rival counsel. When the inspection was made on a surprise visit by a team of officers neither the applicant nor his family members were present. They could not find any evidence of his stay there. On the contrary they found Smt. Angina Chandra w/o Shri Vinod Chandra. It is very clear that this lady is in noway related to the applicant. Her presence there has not been explained. Her occupancy there appears to be the occupation of a complete house. The applicant did not deny that he has a permanent house at Gulmohar Park where he resides and for which he had with him the election card and the ration card.

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In order to explain away the discrepancies and to save the quarter the applicant prepared the CGHS card and cooking gas certificate after the inspection. No one would stay in another's house without permission and without understanding of letting it out. In such circumstances, there is reasonable ground to hold that Smt. Angina Chandra was staying there as a tenant and the applicant had let out the premises. I could not find anything in the evidence submitted by the applicant to disprove this reasonable inference drawn by the respondents. There is no other material also to prove that there was no let out. Neither presence of the lady nor her relationship with the applicant was explained or established in spite of several opportunities. The conclusion of subletting drawn by the respondents does not call for any interference.

7. In the result, the O.A. is dismissed. No costs.

N. Sahu
(N. Sahu)
Member (Admnv)

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