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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

OA-577/98

New Delhi this the 16th day of September, 1998.

Hon'ble Shri S.P. Biswas, Member(A)

Smt. Prem Kumari,
W/o Sh. S.K. Hasija,
working as Steno Grade-III
in the office of G.E.
Subroto Park,
Delhi Cantt.10.

..... Applicant

(through Sh. A.K. Trivedi, advocate)

versus

1. Union of India through
its Secretary, Ministry
of Defence, South Block,
New Delhi-11.
2. Air Officer Commanding,
(Estate Officer)
Air Force Station, Palam,
Delhi Cantt.10.
3. U.A. B.S.O.(North),
A.F. Station, Palam,
Delhi Cantt.10.
4. Garrison Engineer,
Subroto Park,
Delhi Cantt. 10.

..... Respondents

(through Sh. Rajinder Nishchal, advocate)

ORDER(ORAL)

The short issue for determination is as follows:-

Can an order, which adversely affects the right of an employee, be issued without putting him/her on notice?

2. The applicant, an allottee of Quarter No. 91/6, Pinto Park was found to have subletted the house in contravention of the rules laid down in respect of

allotment of Government accommodation. Pursuant to the necessary investigations, she was declared unauthorised occupant of the said quarter w.e.f. 17.12.96. Following to that, Annexure A-4 order was sent to her indicating that she has to pay a total of Rs. 15,451/- as a part of the penal rent. The amount includes also water and electricity charges.

3. The issue before us whether the recovery which has been effected, as per Annexure A-5 communication dated 11.3.98, should have been done without giving any warning to the applicant. The respondents do not deny that the recovery was not preceded by any formal show cause notice. It is well settled in law that any order to the detriment of an official cannot be made without affording him/her an opportunity to show cause against the proposed order. Affected persons must know the reasons for which action is being taken. Authority is legion for this purpose and it is available in the case State of Orissa Vs. Dr. (Miss) Binapani Dei & Ors. (AIR 1967 SC 1269). Admittedly, the impugned order at A-1 was passed without disclosing the reasons thereof to the applicant and without affording any opportunity to show cause against the same. For this reason, the impugned order cannot be sustained in the eyes of law.

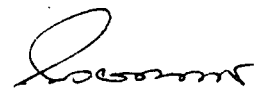
4. In view of the reasons aforesaid, the O.A. is allowed with the direction to the respondents that the amount should be refunded within a period of 8 weeks from the receipt of a copy of this order.

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5. Our orders will, however, not stand in the way of the respondents in ordering and effecting the recovery, if they have a case, but after following the due process of law. The O.A. is disposed of as aforesaid. No costs.


(S.P. Biswas)
Member (A)

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