

Central Administrative Tribunal  
Principal Bench

O.A. 925/98

New Delhi this the 28th day of October, 1999

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

Suraj Prakash,  
S/o Shri Tulsi Ram,  
R/o H-389, Block 14,  
Kali Bari Marg,  
New Delhi.

Applicant.

By Advocate Shri S.K. Rungta.

Versus

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

2. Director Estate,  
Urban Development, Nirman Bhawan,  
New Delhi.

3. Shri R.P. Unial,  
Under Secretary,  
Department of Personnel & Public  
Grievances, North Block,  
New Delhi.

Respondents.

By Advocate Shri Madhav Panikar.

O R D E R

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

The applicant is aggrieved by the order passed by Respondent 2, i.e. The Director of Estates, dated 20.3.1998 offering him a change of accommodation from Quarter No. H-389, Block 14, Kali Bari Marg, N.Delhi to Quarter No. 1001, Baba Kharak Singh Marg, N.Delhi.

2. The brief facts of the case are that the applicant, who is working as LDC in C.P.W.D., was allotted the accommodation at H-389, Block 14, Kali Bari Marg, New Delhi. He is living in that house with his family. According to Shri S.K. Rungta, learned counsel for the applicant, as the applicant is blind, some of the residents having influence over the office bearers of the Residents

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Welfare Association, are biased and prejudiced against the applicant and harassed him and his family. The applicant has stated that Respondent 3 i.e. the Under Secretary, Department of Personnel and Public Grievances, had sent a letter to the applicant to present himself before him on 18.11.1997 for the change of his accommodation which, according to him, was at the instance of the nearby residents and the office bearers of the Association. The main contention of the learned counsel for the applicant is that as the residents and the office bearers were prejudiced against the applicant and his family because of his blindness, they have, therefore, managed with Respondent 3 to get him removed from the locality and to allot him an alternate accommodation. He has submitted that the applicant had attended the meeting when he found that Respondent 3 was in favour of the residents and he was forced to agree with the change of the accommodation, after which the impugned letter dated 20.3.1998 has been issued. The applicant has refused to accept the alternate accommodation by letter dated 26.3.1998. The contention of the learned counsel for the applicant is that the impugned order has been passed out of vindictiveness towards the blind applicant. He has, therefore, prayed that the impugned order dated 20.3.1998 may be quashed and set aside and allow the applicant to continue in the present accommodation.

3. The respondents have submitted that the impugned order has been passed after examining the complaints and the report of the Area Welfare Officer, who had recommended that the applicant may be shifted to some other colony so that the residents/neighbours can live peacefully. They have submitted that the applicant was

allotted the quarter in Kali Bari Marg, N.Delhi on 24.4.1990. Respondent 3, i.e. the Department of Personnel and Training had received a number of complaints from the Welfare Association as well as residents of H Block, Kali Bari Marg, N.Delhi against the bad behaviour and abusive language of the applicant which they had looked into. They have submitted that an alternate accommodation has been allotted to the applicant by the letter dated 20.3.1998, the offer of which was sent by post. Another copy of the offer was also sent by special messenger on 2.4.1998, but the applicant's wife refused to accept the same. Another offer of alternate quarter No. 1123, B.K.S.Marg, New Delhi, was sent to him on 27.4.1998 at his office address as well as his home address on 27.4.1998 which was again refused. Thereafter, the allotment was cancelled on 30.6.1998 and eviction proceedings were initiated against the applicant which resulted in the eviction order dated 14.8.1998. The respondents have also stated that Respondent 3 had received complaints from the residents as well as the office bearers of the Welfare Association, H.Block (K.B.Marg) against the rude behaviour and abusive language of the applicant. Several complaints were also lodged against the applicant at Mandir Marg Police Station which were investigated by them in consultation with the Area Welfare Officer. They have submitted that this has been done in accordance with the prescribed procedure and according to them, they have complied with the principles of natural justice and given an opportunity to the applicant to explain his case.

4. This has, however, been very vehemently denied by the learned counsel for the applicant, who has submitted that the respondents have failed to comply with the principles of natural justice as, according to him, when the

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applicant was called for the meeting, no report of the Area Welfare Officer was furnished to him. He, therefore, states that the applicant was not knowing as to why he had been called for the meeting in the office of the Chief Welfare Officer and what the meeting was about and hence he has contended that no opportunity was afforded to the applicant to put forward his case against the complaints said to have been received by the respondents, before the order was issued giving him an alternate accommodation.

5. Shri Madhav Panikar, learned counsel, has, on the other hand, submitted that the applicant's wife had been refusing the letters and intimations sent to the applicant. He has also submitted that the impugned order has been passed in accordance with the relevant instructions and in no way it has caused prejudice to the applicant as he has been given alternate accommodation in an equally good locality. He has also drawn my attention to the enclosures to the reply, including the requests made by the residents as well as the office bearers of the Welfare Association complaining against the applicant. The residents had requested the Department to change the residence of the applicant to another locality which has been accepted. Learned counsel has submitted that in the facts and circumstances of the case, the change of accommodation which has been allotted to the applicant, is in no way to be considered as biased action to victimise the applicant as it has been done in the welfare of all concerned, including the applicant himself.

6. Shri Rungta, learned counsel, in reply has submitted that the notice issued by the DOP&T summoning the applicant in the meeting is an eye wash as the respondents  
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had acted on the pre-conceived decision for the change of accommodation of the applicant. He submits that in the letter itself, it is stated that the subject is change of residential accommodation. He has also submitted that the respondents have themselves admitted that they have relied on the report of the Area Welfare Officer by passing the impugned order dated 20.3.1998 which report he states has not been supplied to him. As a result, the learned counsel submits that although the applicant attended the meeting on 11.8.1997 in the room of the Chief Welfare Officer, he was not in a position to properly put forward his case as he had not been supplied with the relevant document relied upon by them.

7. From the documents on record, the allegation of the applicant's counsel appears to be borne out. The respondents ought to have given a copy of the Area Welfare Officer's report to the applicant so that he could have had an opportunity to rebut the same before the decision was taken by Respondents 2 and 3 to offer him an alternate accommodation at Kali Bari Marg. While the respondents have the power to take an appropriate decision in such matters, under the relevant instructions issued by the DOP&T, to offer the allottee an alternate accommodation when there are numerous complaints against him from the neighbours and so on, there is merit in the contention of Shri Rungta, learned counsel, that the respondents have failed to fully comply with the principles of natural justice. To this extent, there is an infirmity in the impugned order dated 20.3.1998, giving him an alternate accommodation especially when it is considered that the applicant is a blind person. In this view of the matter, the subsequent allotment and

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cancellation of the quarter at B.K.S. Marg need not be gone into at this stage.

8. For the reasons given above, the impugned order dated 20.3.1998 issued by Respondent 2 giving the applicant a change of accommodation is quashed and set aside. It is left open to the respondents to proceed further in the matter of allotting the applicant an alternate accommodation after furnishing him a copy of the relevant documents, including the Area Welfare Officer's report, on which they rely. Parties to bear their own costs.

*Lakshmi Swaminathan*

(Smt. Lakshmi Swaminathan)  
Member (J)

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