

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

O.A.NO.1238/95

Hon'ble Mrs. Lakshmi Swaminathan, Member(J)
Hon'ble Shri R.K.Ahooja, Member(A)

New Delhi, this 24th day of November, 1995

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H.C.Kaptan Singh
s/o kate Shri Neki Ram Sharma
R/o C-11, NPL, Kingway Camp
Delhi - 9. Applicant

(By Mrs. Meera Chhibber, Advocate)

Versus

Union of India; through:

1. The Secretary
Ministry of Home Affairs
North Block -
Delhi.
2. Additional Commissioner of Police(HQ)
Police Head Quarters
M.S.O.Building,
I.P.Estate
New Delhi.
3. Dy. Commissioner of Police HQ.III
Police Head Quarters
M.S.O.Building
I.P.Estate
New Delhi. ... Respondents

(By Shri Raj Singh, Advocate)

O R D E R (Oral)

Hon'ble Shri R.K.Ahooja, Member(A)

The applicant, Head Constable Kaptan Singh has filed this Original Application aggrieved by the orders dated 29.5.1995 and 11.7.1995 whereby the respondent No.3 has cancelled the allotment of Government quarter No.C-11, Type II, New Police Lines, Delhi made in his favour.

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2. The case of the applicant briefly stated is that he was allotted a Type-II quarter No.D-4 which is situated on first floor at New Police Lines in 1989. Since he was a T.B. Patient and his wife was also suffering from ailments which restricted her movement as also his parents illness, he applied for an exchange of his quarter with a ground floor house. This was agreed to by Respondent No.3 and the applicant was allowed a mutual exchange vide order dated 20.7.1993, with Sub-Inspector Vir Singh occupying the quarter No.C-11. The applicant submits that the exchange was carried out on 6.8.1993, and confirmed by the Inspector of Estates and a DD entry No.35 dated 6.8.1993 to that effect was also made (Annexure P-7). The applicant avers that he shifted his luggage to house No.C-11 but S.I. Veer Singh did not shift all his baggage/luggage on the pretext that he would take away all his leftover baggage after getting the exchanged quarter white washed. This was agreed to by the applicant. However, later, when the applicant requested S.I. Vir Singh to remove his baggage, he did not do so. The applicant, therefore, represented to Respondent No.3, Deputy Commissioner of Police (Headquarters-III) that though the two houses had been mutually exchanged S.I.Vir Singh had not removed all his luggage and that he be directed to take away the same from quarter No.C-11. Since no action was taken on the request of the applicant, he sent another letter dated 23.6.1994 and informed the authorities that the S.I. Veer Singh was refusing to remove his remaining baggage.

3. The applicant alleges that instead of vacating the quarter, S.I.Vir Singh threw out applicant's luggage from the quarter No.C-11 since he was incensed because applicant's

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wife had claimed her share of payment out of the work which she had done with S.I.Vir Singh's wife. Since the DCP (Headquarter-III) had not taken any action on his representation, the applicant made a complaint again on 10.11.1994 (Annexure P10) narrating the history of the case. By another letter dated 13.11.1994 he also intimated to Respondent No.3 that though S I Vir Singh had agreed to exchange the quarter he was now demanding money for the same and had thrown applicant's luggage out from quarter No.C-11, resulting in he along with his wife and children being thrown out from the quarter. It is common ground between the parties that on the basis of the representations made by the applicant, an enquiry was conducted which showed that while S.I.Vir Singh was living in quarter No.C-11 the applicant's house hold luggage was also found in the verranda and court yard of the said quarter. The applicant is aggrieved that instead of taking any action against S.I.Vir Singh on the basis of the complaints made by him he was instead served with a show-cause notice resulting in the cancellation of allotment of the quarter and he was also debarred from any further allotment for the period of one year.

4. The respondents controvert the allegations made by the applicant. Their case is that the show-cause notice and the subsequent cancellation was made against the applicant since the enquiry conducted in the matter had shown that the initial DD entry made by the applicant to the effect that he had exchanged the quarter with S.I. Vir Singh on 6.8.1993 was false and in fact S.I.Vir Singh had continued to stay in quarter No.C-11.

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5. We have heard the learned counsel on both sides. The learned counsel for the applicant has drawn our attention to the fact that number of representations were made to the authorities to the effect that S.I. Vir Singh had not removed all his baggage and was creating difficulties for the applicant. Further more the respondents on their own admission made an enquiry into the matter only on the basis of the representation filed by the applicant. Learned counsel for the applicant has also drawn our attention to the show-cause notice and points out that a reference has been made therein to the violation on the part of the applicant of clause 22.50 of PPR, 1861 which are no longer in force, on promulgation of the Delhi Police Act, 1978 and the Rules thereunder. Learned counsel for the applicant also claims that the formulation of the show-cause notice denies a proper opportunity to the applicant to explain his position and that the applicant's request for a personal hearing in the matter was also wrongfully denied. 8

6. The learned counsel for the respondents in his arguments has stressed the point that the action taken by the respondents was only on the ground that a wrong and false statement was made by the applicant in respect of the exchange of quarters on 6.8.1993 which the enquiry conducted in November, 1994 had shown to be wrong and this was the only ground for action taken by the respondents for cancellation of the allotment. While he agreed that the PPR, 1861 are no longer in force, he has explained that it had been clarified in the show-cause notice itself that the action was proposed to be taken in the context of S.O.No.3/91.

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7. We have considered the arguments advanced by the learned counsel on both sides and gone through the records of the case. The main question raised is whether the applicant had actually exchanged quarter No. D-4 originally allotted to him with quarter No.C-11 allotted to S.I.Vir Singh. It is clear that the applicant was an interested party as it was he, who had made the request for allotment of a quarter on the ground floor due to various reasons mentioned by him in his representation before respondent No.3 such as his own illness and his wife's illness and the age and medical condition of his parents. There would therefore, be no reason for the applicant to take immediate advantage of this order issued by the respondents for exchange which would enable him to go to the ground floor. Further more the occupation slip has been signed by both the parties and what is more important it was endorsed by the Inspector of Estate. This would indicate that the fact of exchange of the allotments was verified by the person whose duty was to check the same. It is submitted by the applicant that when the enquiry was made S.I.Vir Singh was also staying in the quarter No.C-11. The explanation given by the applicant is neither ~~inconsiderable~~ ^{or inconceivable} nor unreasonable that at the time of exchange S.I.Vir Singh had requested that he may be allowed to keep part of his luggage, pending white wash of quarter No.D-4. Later when S.I.Vir Singh ^{refused to} take away his baggage, various representations which were filed by the applicant show a continuous struggle on the part of the applicant to get S.I.Vir Singh removed from the house with the help of authorities. The enquiry on which the show-cause notice was based itself was conducted by the authorities on the complaint of the applicant and not on their own information that the exchange had not taken place and the statement made

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by the applicant in respect of said exchange was false and incorrect. More importantly the enquiry does not show where the applicant was staying at the time this enquiry was conducted; all that the enquiry report states is that the family of S.I.Vir Singh was found to be in quarter No.C-11 and that the luggage of the applicant was also found in the Courtyard and the Varanda of the same house. The applicant states that the exchange had been made but S.I.Vir Singh refused to take away all his luggage and later demanded money to leave the quarter. It is quite normal that in such cases consideration is shown to the person with whom exchange is made to allow him to retain some part or whole of his effects pending completion of cleaning and white washing of the house where that person is shifting. This would be more so in circumstances where such a request comes from more senior officer.

8. We also find from a copy of the DD No.82 dated 20.3.1995 (Annexure P-16) that S.I.Vir Singh handed over to the authorities the charge of quarter No.D-4 on his retirement after his request for extension had been finally rejected.

9. In view of the above analysis we have no hesitation in coming to the conclusion that the applicant had made the exchange with the S.I.Veer Singh as per the allotment order. Even if S.I.Veer Singh continued to occupy part of the house it does not materially change the fact of exchange of the quarters between the applicant and S.I.Veer Singh. The New Police Lines would have a large number of houses and

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residents and it is difficult to believe that in case the exchange had not taken place, the fact of it would not have come to the notice of the authorities for a period of more than one year.

10. In view of foregoing, we hold the action of the respondents in issuing the show-cause notice and order of cancellation of allotment to be unwarranted and unjustified. Accordingly, the application is allowed and impugned orders dated 29.5.1995 and 11.7.1995 are quashed and set-aside. The respondents shall allow applicant to continue in Quarter No.C-11 Type --II, New Police Lines, Delhi with normal rent. No order as to costs.

R.K. Ahuja
(R.K. AHOOJA)
MEMBER(A)

/RAO/

Lakshmi Swaminathan
(MRS. LAKSHMI SWAMINATHAN)
MEMBER(J)