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CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

O.A.NO.2114/95

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

New Delhi, this 17th day of January, 1996

Shri Sanjay Verma
s/o Shri Jagdish Narain Verma
r/o II/5, CPWD Service Centre
Pragati Vihar Hostel
Lodhi Road
New Delhi - 110 023.

... Applicant

(By Shri P.S.Bhullar, Advocate)

Versus

1. Estate Officer-cum-Executive Engineer
Office of the Estate Officer
"D" Division C.P.W.D.
D-II/133-135, Kidwai Nagar(West)
New Delhi.
2. C.P.W.D.
Nirman Bhawan
New Delhi through Director of Administration
3. Union of India
Ministry of Urban Development
New Delhi through Secretary

... Respondents

(By Shri R.V.Singh, Advocate)

O R D E R(Oral)

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

The applicant in this case joined the Central Public Works Department on 3rd February, 1990 as a Junior Engineer and was allotted a Type II quarter bearing No.5 at Pragati Vihar service centre on 3.6.1991. He continued to occupy the said quarter, when the Construction Division was closed and it was merged with Division "D" on 5.9.1991. On 6.6.1994 the

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applicant was suspended from service but was later on reinstated on 9.11.1994. Thereafter, the applicant was transferred to Delhi Central Circle VI B (Planning) but he continued to retain the Government accommodation. He was served with a show-cause notice regarding the vacation of the quarter occupied by him on 2.5.1994. The applicant made representations against the proposed orders but the same were not accepted and on 8.8.1995 the respondents issued an eviction order against which the applicant has come before the Tribunal.

2. The applicant's case is that he had been suspended and then reinstated and transferred only because of the enquiry against him and since the enquiry has still not been finalised, therefore, his transfer to another Division cannot be regarded as if in normal course. His prayer is that in the circumstances of the case the impugned order be set-aside and he should be allowed to retain the accommodation in question.

3. The respondents in their reply have pointed out that the aforesaid accommodation was allotted to the applicant on the basis of essential category, in accordance with the rules of allotment of Governments residences (under the control of CPWD, Ministry of Urban Development) as amended from time to time. They affirm that since the applicant had been transferred from the concerned Division, he was required to vacate the accommodation so that the same could be occupied by the essential service staff posted in his place.

4. I have heard the learned counsel on both sides. The learned counsel for the applicant, Shri P.S.Bhullar argued that the transfer of the applicant has to be seen in the context of the enquiry started against him and not as a normal transfer which would require vacation of the quarters. He submitted that if the charges against the applicant are proved to be false then the ⁿvery basis of transfer would disappear and since he has not completed his normal tenure, he would most likely be posted back to the same place. He also relied on an order of this Tribunal in OA No.1963 of 1991 in the case of Jai Ram Yadav Vs. Union of India & Others. In that case, the applicant working in Central Public Works Department, on transfer to another controlling authority under the Delhi Administration had been allowed to retain the accommodation pending the allotment of alternative accommodation by the Delhi Administration. The learned counsel for the applicant also argued that pending allotment of alternative accommodation, the Tribunal had in that case not only allowed the retention of the previous allotment even though it was outside the jurisdiction of CPWD but the Tribunal had directed the charging of only the normal rent.

5. The learned counsel for the respondents drew attention to the Rules of the Allotment of Government Residences (under the control of the Central Public Works Department) Rules, 1981 and in particular to para 1c, e(ii), h, i, n and t(i) as well as the sub-rule relating to allotment of residences to an officer. He submits that in terms of these provisions the allotment was to be done only to the essential staff posted in a particular Division and the same was required to be vacated on transfer of the officer to another Division. He also pointed out that the applicant having been transferred for

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whatsoever a reason, the accommodation will have to allotted to the essential staff in his place. He also submitted that the Judgment of the Tribunal in OA No.1963/91 relied upon by the learned counsel for the applicant is not relevant in the present case.

6. I have considered the arguments advanced by the learned counsel on both sides, and have gone through the pleadings and a copy of the order of this Tribunal in OA No.1963/91. There is no dispute that the accommodation in question was allotted to the applicant as an essential staff posted in the 'D' Division. There is also no dispute that the applicant has been transferred out to another Division even though initially the transfer was made only in order to facilitate the enquiry, after he had been placed under suspension.

7. In the present case, we are not examining the bonafides of the respondents in issuing the orders of transfer of the applicant. Since the applicant was allotted the accommodation only as an essential staff for the Division, and he has been transferred from that position to another Division, he is no longer entitled to retain the accommodation in terms of the relevant rules. It has been provided at in the Table at Page 9 of the Rule that the said accommodation can be retained only for a period of two months on transfer to another office which is not eligible for accommodation under these rules. Thus, the Rules clearly provide that on transfer away from the eligible Division, the quarter has to be vacated. As per Rule 1(e) of the allotment of Residences and Officers - S.R.317 - B B-7, ^{it is} even provided that "notwithstanding other provisions, allotment may be cancelled without providing alternative accommodation if the

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alloting authority at any stage considers that the services of the allottee Government servant is not essential at the enquiry offices". This means, that even in case of transfer within the Division, the allotment can be cancelled if the services of the allottee is no longer considered essential.

8. The facts in the order of this Tribunal in OA No.1963 of 1991 are different as compared to the present application since the applicant in that case had been given accommodation out of the General Pool and not as an essential staff quota working in a particular Division. Therefore, I do not find that the ratio of this order helps the applicant in any way.

9. In the circumstances of the case, I conclude that in terms of the rules regarding retention of accommodation for the essential staff, the applicant was required to vacate the accommodation within two months from the date of his transfer. This application is accordingly dismissed. There shall be no order as to costs.

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

/RAO/