

(10)

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

O.A. No. 2195 of 1995

New Delhi this the 1st day of May, 1996

HON'BLE MR. K. MUTHUKUMAR, MEMBER (A)

Shri Parveen Kumar  
R/o Quarter No.E-7,  
Type-II, New Police Lines,  
Delhi.

..Applicant

By Advocate Shri J. Banerjee

Versus

1. Government of Delhi,  
through the Lt. Governor,  
5, Sham Nath Marg,  
Delhi-110 054.
2. Commissioner of Police (Delhi),  
M.S.O. Building,  
I.P. Estate,  
New Delhi-110002.
3. Deputy Commissioner of Police,  
Head Quarters III, 8th Floor,  
M.S.O. Building, I.P. Estate,  
New Delhi-110002.
4. Additional Commissioner of Police,  
Administration, 5th Floor,  
M.S.O. Building,  
I.P. Estate,  
New Delhi-110002.

..Respondents

By Advocate Shri Arun Bhardwaj

ORDER (ORAL)

Hon'ble Mr. K. Muthukumar

Heard the learned counsel for the parties.  
Since the issue involved in this case is  
relatively a short one, this matter is finally  
disposed of at the admission stage itself.

2. The applicant, Parveen Kumar, a Head  
Constable in the Delhi Police, was served with

the impugned order dated 13.11.1995 directing him to vacate the Government premises allotted to him within a period of 10 days. It is stated in the order that the allotment of the Government accommodation of the applicant was cancelled since the applicant had been suspended from Delhi Police on 4.10.1994 and it is also stated that the cancellation was made with effect from 29.5.1995. The applicant's case is that he continues to be a Government servant despite the fact that he was placed under suspension with effect from 4.10.1994 and that since the suspension is also not a penalty, the respondents' action in cancelling the allotment and ordering the eviction is illegal. Aggrieved by this order, the applicant has, therefore, approached this Tribunal with a prayer that the impugned order may be quashed.

3. The respondents have submitted in their counter-reply that the applicant was allotted the Government quarter vide their order dated 12.3.1993. On his giving an undertaking that he is likely to vacate the quarter shortly, the said quarter was allotted to another Head Constable Bharat Bhushan vide ~~their~~ letter dated 8.7.1994. The applicant was suspended by order dated 4.10.1994. It was also revealed that during the enquiry / ~~on~~ <sup>at</sup> the spot verification that the quarter allotted to the applicant ~~is~~ under illegal occupation by the Constable named Sunil Kumar. Subsequently, the matter was

referred to the Deputy Commissioner of Police (Vigilance) and on the basis of the enquiry report, the decision was taken to cancel the allotment and accordingly, the allotment was cancelled on 29.5.1995. However, since the accommodation cancelled was not vacated by the applicant, an eviction notice was also issued vide order dated 13.11.1995.

4. The learned counsel for the applicant has brought <sup>out</sup> the following facts:-

(i) That the applicant was allotted the accommodation and has been enjoying that accommodation from March, 1993, The respondents have allotted this accommodation to another person without even cancelling this allotment after due notice. The cancellation was made in May, 1995 when the so called enquiry about the illegal occupation by another Constable named Shri Sanil Kumar was available with the DCP (Vigilance) in August, 1995.

(ii) The applicant was only under suspension and, therefore, this cannot be adduced as a ground for ordering the eviction of the applicant from the duly allotted premises.

(iii) In regard to the averments made by the respondents that he had given an undertaking that he is likely to vacate the quarter and will have no objection if the same is allotted to another Constable, the learned counsel for the applicant submits that the undertaking given

h

.4.

15

by him was taken under duress from him when the said allottee Shri Bharat Bhushan was constantly harassing the applicant <sup>with</sup> the information that the said allotment has been made in his favour as early as in July, 1994, itself when the applicant himself was not aware of the cancellation of the allotment.

5. In the rejoinder to the reply filed by the applicant, he has also denied the fact of having sublet any accommodation and has averred that he has sought permission of the authorities to let another Constable stay with him to enable him to give proper medical treatment to his wife. This official request was made to the respondents only on <sup>humanitarian</sup> ~~domestic~~ considerations but, however, the respondents have returned the official request with the remarks that the said quarter already stands allotted in the name of Bharat Bhushan.

6. The learned counsel for the respondents produced before me the concerned departmental file in which the said impugned order and other related papers have been issued.

7. I have gone through the relevant file. There is nothing to indicate that the cancellation of the accommodation had to be made as the applicant was suspended from Delhi Police on 4.10.1994. From the papers made available in the file, it is evident that the decision to cancel the allotment was taken in pursuance of the <sup>a</sup>complaints regarding subletting which

14  
p  
5.

had been enquired into by the respondents and was reported upon through the DCP (Vigilance) in August, 1995, as averred in the counter-reply. However, the order regarding cancellation was passed in May, 1995 itself. The learned counsel for the respondents, however, maintain that even this cancellation was done on another spot enquiry conducted earlier. Be that as it may, the respondents have not shown how the applicant has ceased to be ineligible for

Government accommodation just because he has been suspended on 4.10.1994. This is the ground alleged in the impugned order. The learned counsel for the respondents fairly admitted that there is no rule which provided for cancellation of the allotment just on the ground that the employee has been suspended. Therefore, on the face of it, the impugned order as it stands and the reasons for issue of such an order as stated under the grounds in the aforesaid order, cannot be sustained. From the order cancelling the allotment dated 29.5.1995, it is seen that there had been no notice to the applicant regarding the proposed cancellation of the aforesaid quarter. The learned counsel for the applicant also had submitted that the applicant had not been served officially the copy of this order. It is seen from the order that the said order directs S.O. to DCP (HQ-III) to inform the applicant

h

15

of this order. Be that as it may, the fact remains that no notice has been sent prior to the issue of this order and in the interest of justice, before the cancellation of the allotment, an opportunity should have been given to the applicant to explain his position before finally cancelling the allotment. The respondents may have their own reasons but the grounds adduced in the impugned order cannot stand legal scrutiny.

8. In the light of the foregoing, the impugned order has to be set aside and is accordingly set aside. It is, however, open to the respondents to take such action as may be deemed fit in accordance with law in regard to any other facts which may be in their knowledge to proceed against the applicant in accordance with law. There shall be no order as to costs.

  
(K. MUTHUKUMAR)  
MEMBER (A)

RKS