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CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH (6)

O.A. No. 2332 of 1995

New Delhi this the 1st day of May, 1996

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

Shri Jasmeet Singh
S/o Shri Darshan Singh
R/o Quarter No. 4/3 P.S. Model Town,
New Delhi-110 009. ..Applicant

By Advocate Mrs. Meera Chhibber

Versus

1. Union of India
through
Additional Commissioner of
Police (Admn.),
P.H.Q., M.S.O. Building,
New Delhi.
2. Dy. Commissioner of Police HQ III,
PHQ, M.S.O. Building,
I.P. Estate,
New Delhi.
3. Constable Gurmej Singh
No.937-L,
R/o L-1/2 Type-I,
P.S. Model Town,
Delhi-110 009. ...Respondents

By Advocate Shri Surat Singh

ORDER (ORAL)

Hon'ble Mr. K. Muthukumar

Heard the learned counsel for the parties.
Since the matter falls within a short compass,
it is proposed to dispose it of finally at the
admission stage itself.

2. The applicant was allotted a Type-II
quarter on 26.10.1992. When the applicant was
occupying this accommodation, the applicant's
wife met with a serious accident in

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December, 1993, which resulted in fracture of leg and knee compounded by another nerve injury. The applicant had, therefore, applied for a change of accommodation in March, 1994 to another ground floor flat in view of the discomfort of his and also in view of the medical advice. The hospital authorities, namely, the R.M.L. Hospital, New Delhi had also declared the applicant's wife to be ^{having} 18% permanent physical impairment as a result of the injuries sustained in the aforesaid accident. On coming to know that a ground floor flat in the same building in which he was living was likely to fall vacant on the retirement of the allottee, the applicant made a request for change of accommodation of the ground floor flat in continuation of the earlier request for a change.

Considering his request, the applicant was allowed the change of accommodation and a formal order allotting the applicant the ground floor flat was made vide order of the respondents dated 26.5.1995 vide Annexure P-9. It is stated that the allotment will be with effect from the vacation of the said quarter No.1/2, Type-II P.S. Model Town, Delhi. The applicant was also asked to occupy the said premises by the occupation slip dated 2nd June, 1995. The applicant, however, could not occupy this as the original allottee of the said quarter had not vacated even by then although he had retired in December, 1994 and was also given

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which has also expired three months extension/. The respondents, however, subsequently by their impugned order cancelled the allotment of the ground floor flat made in favour of the applicant by their earlier order dated 25.5.1995 and allotted the said premise on vacation to the respondent No.3. It is against this order that the applicant has come to this Tribunal.

3. The applicant alleges that sudden cancellation of his allotment of the ground floor flat was done in a mala fide manner in as much as the respondent No.3 happens to be the staff car Driver of the Home Secretary of the Delhi Administration. The respondents, however, have denied this allegation in their counter-reply but have added that the allotment has, however, been cancelled since respondent No.3 had not occupied the same even till the said cancellation order made on 28.12.1995.

4. It is worth noting here that an ex-parte stay order was granted by the Tribunal on 12.12.95 against the impugned order in so far as it relates to both the applicant as well as respondent No.3.

5. The learned counsel for the applicant has strongly contested the action of the respondents in unilaterally cancelling the allotment, which has been made after taking into account the difficulties of the applicant and his wife's disability, without any rhyme

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or reason. The learned counsel for the respondents, however, submitted that apart from the fact that the administration had exercised its discretion in the matter, he had nothing further to add by way of arguments in this case.

6. It is stated in the reply of the respondents that although the impugned order in so far as it relates to respondent No.3, has been cancelled, it has been averred that the applicant's case is still under consideration and is pending till the decision in this O.A.. It is, however, not clear how when an interim stay order is operating even against respondent No.3, the respondents could cancel that order as far as it related to respondent No.3. Be that as it may, from the reply of the respondents, no reason has been assigned for the sudden cancellation of the ground floor flat which has been allotted to the applicant. The learned counsel for the respondents have also not shown any tangible or legal ground under which the respondents could have cancelled the allotment made in favour of the applicant. The learned counsel for the respondents has fairly admitted that there is no legal ground at all for the respondents to contest this case and it is a matter of pure administrative

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discretion which had prompted the respondents to take action in the matter, as they have done.

8. From the foregoing facts, it is fairly evident that there is no justifiable or legal grounds which are shown to support the action of the respondents in issuing the impugned order cancelling the allotment of the ground floor flat in favour of the applicant. In the result, this application succeeds and the cancellation order which is impugned in this application in so far as it relates to the applicant is set aside and the respondents are directed to restore the original allotment of the ground floor flat No.Q-1/2 Type-II, P.S. Model Town, Delhi, in favour of the applicant as originally allotted to him.

In the circumstances, there shall be no order as to costs.



(K. MUTHUKUMAR)
MEMBER (A)

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