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Central Administrative Tribunal
Principal Bench, New Delhi.

OA-409/95

New Delhi this the 13th Day of September, 1995.

Hon'ble Shri B.K. Singh, Member(A)

Shri Kedar Prashad,
S/o Sh. Ram Bishan Prashad,
Q.No.211, Block No.5,
Mir Dard Lane,
MAMC CAMPUS,
New Delhi.

Applicant

(through Shri S.D. Dixit, advocate)

versus

1. Sh. S.C. Maly Chamni,
Secretary Medical,
5, Shyam Nath Marg,
Delhi-54.
2. Sh. U.R. Kapoor,
PHC/Cum-Jt. Secretary,
(Medical-II),
1, J.L. Nehru Marg,
New Delhi.
3. Medical Superintendent,
G.B. Pant Hospital,
New Delhi.

Respondents


(through Sh. Girish Kathpalia, advocate)

ORDER(ORAL)

delivered by Hon'ble Shri B.K. Singh, Member(A)

This O.A.No.409/95 has been filed against
letter No.F.1(211/144)/86-MC/EC/355/0 dated 26.12.91.

It seems that during the surprise inspection, it
was found that the house had been fully sub-let to
one Mrs. Sultana Begum. The inspection team of
the department also obtained the signature of Mrs. Sultana
Begum certifying that she had been living in that
house since 1991. The applicant was served with a
show cause notice by the Estate Officer as to why
the allotment should not be cancelled. The applicant
failed to send a convincing reply to the show cause
notice and after being fully satisfied, the allotment



of the accommodation in favour of the applicant was cancelled with effect from 18.1.1991 vide order dated 26.12.1991 and he was asked to pay Rs.360/- p.m. as rent and Rs.4/- as water charges from 18.1.1991 till vacation of the quarter. The applicant was further informed that he should vacate and hand over the possession failing which the market rent @ Rs.1547/- p.m. would be charged from him. The applicant neither vacated the accommodation nor paid the market rent which has been assessed till 30.11.94 as Rs.50,659/-.

A short reply has been filed on behalf of the respondents to which no rejoinder has been filed on behalf of the applicant. While going through the record it is clearly mentioned in the order dated 22.3.95 that allotment and cancellation are strictly within the domain of the executive and there is no scope for judicial review so far as allotment and cancellation are concerned. Cancellation takes place in a very routine manner when a man retires from service or when he is transferred or when he dies. It is only after cancellation that a person can file an application for its retention on payment of normal licence fee for four months and on medical ground or on ground of education of children for another four months on payment of double the licence fee.

The learned counsel for the applicant was asked to cite the authorities on the subject that the courts have to intervene in cases of allotment/cancellation. Allotment of a house is not a condition of service. In lieu of allotment of house, the Government is bound to pay H.R.A. to the officer. Nobody can claim allotment as a matter of right.




The officers and employees are required to stand in queue till their turn comes for allotment. In case of irregularity such as sub-letting the house of public premises, the respondents are fully competent to cancel the allotment. In the instant case, the allotment was cancelled only when the entire house was sub-let to Mrs. Sultana Begum and she had certified this fact to the inspection team.

For throwing out a person from the public premises or for charging damage rent, the Estate Officer has to follow the provisions laid down under Sections 4 & 5 of the P.P.E. Act, 1971 and after giving full opportunity to an unauthorised person or to a person who has sub-let public premises, the Estate Officer is required to pass a reasoned order. Even market rent cannot be charged without taking recourse to Section 7 of the P.P.E. Act, 1971. It is only after complying with the provisions of Sections 4, 5 & 7 of the P.P.E. Act, 1971 that eviction and recovery of damage rent can be resorted to. In the instant case, no eviction order has been passed by the respondents against the applicant. If somebody else is living in place of the allottee, the Estate Officer is fully competent to evict such an unauthorised person but only after complying with the provisions of Sections 4 & 5 of the P.P.E. Act, 1971. For charging damage rent also, they have to comply with the provisions of Section 7 of the P.P.E. Act, 1971.

I do not find any order of eviction passed under the P.P.E. Act, 1971 and, therefore, this application is pre-mature. The application is



dismissed as such with a direction to the respondents to follow the provisions of P.P.E. Act, 1971 before taking recourse to eviction or charging the damage rent. In the circumstances, there will be no order as to costs.


(B.K. SINGH)
MEMBER (A)

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