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Central Administrative Tribunal, Principal Bench

O.A.No.1171/96
M.A.No.2292/96

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

New Delhi, this 7th day of March, 1997

Shri Rai Singh
s/o Late Shri Sumer Singh
Chowkidar(Watch Man)
r/o Qr. No.463, Sector-V
R.K.Puram
New Delhi - 110 022.

... Applicant

(By Shri M.L.Chawla, Advocate)

Vs.

Union of India through

1. The Secretary
Govt. of India
Atomic Energy
Ministry of Energy
South Block, Central Sectt.,
New Delhi - 110 011.

2. The Regional Director
Department of Atomic Energy
Ministry of Energy
West Block VII,
R.K.Puram
New Delhi - 110 066.

3. The Director
Directorate of Estates
Nirman Bhawan
New Delhi - 110 003.

... Respondents

(By Shri B.Lall, Advocate)

O R D E R(Oral)

The applicant is a Chowkidar in the Department of Atomic Energy and was allotted a Government Accommodation, Quarter No.463(Type I), Sector-V, R.K.Puram. The applicant submits that he had gone out of station on Earned Leave from 30.8.1995 to 04.09.1995 after the leave was duly sanctioned to him. A complaint was received by the Director of Estates who got the quarter incepted during his absence and found the brother of the applicant instead of the applicant, in the quarter. A report was submitted that the applicant had sublet the quarter. This resulted in the cancellation of the allotment and the impugned order of eviction. The applicant's

Dr

13

case is that as he had gone on leave to his village, he had asked his brother to stay in the quarter for reasons of security and also because his brother's wife was under going medical treatment.

2. The respondents in their reply statement have stated that one Shri Prem Pal along with his family was staying in the quarter when the inspection team visited the place. A statement was also made by the wife of Shri Prem Pal that they had been staying earlier also in the quarter. The applicant during the hearing before the Estate Officer could not establish that the person staying in the quarter was his own brother. The respondents state that in view of this, the impugned order was rightly passed, and pray that the OA may be dismissed.

3. I have heard the learned counsel on both sides and have also gone through the records of the Director of Estates. It is an admitted fact that the applicant had gone out of station on sanctioned leave during the period when the inspection had been conducted. It may be that the person who was found in the house, during his absence, was not a real brother. It is not uncommon for those coming from rural areas to call ^{even} ~~their~~ distant relatives as brothers, and much need not be read in to the fact whether the person found staying in the home was a real brother or not. The report of the inspection also shows that according to the inspecting officer the quarter was "suspected to be sublet partially" (emphasis supplied). There is however no indication that the applicant was not staying in the quarter and the mere fact that the said Prem Pal with his family had been staying there in the previous month also is no indication that the house had been sublet. What is more significant is that Annexure-7 shows an

Dr

14

endorsement of the Head of Office, Department of Atomic Energy that as per their enquiry the applicant had never sublet the quarter and the representation of the applicant was forwarded with the same remarks. In view of the above position that there is no evidence whatsoever to show that the house had been sublet apart from the fact that during the applicant's absence in the house some relatives were found to be staying in the quarter. In view of this position the conclusion regarding subletting being without any foundation whatever cover is set-aside.

The OA is allowed accordingly. No costs.

/rao/


(R.K. AHUJA)
MEMBER (A)