

Central Administrative Tribunal, Principal Bench

O.A.No.1324/96

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

New Delhi, this 19th day of February, 1997

Smt. Kartari
w/o Shri Phool Chand
r/o K-327, Sewa Nagar
New Delhi.

... Applicant

(By Shri S.K.Gupta, Advocate)

Vs.

1. Union of India
through Director
Directorate of Extension
Department of Agriculture and Co-operation
8, Western Block
R.K.Puram
New Delhi.

2. Estate Officer
Directorate of Estates
Nirman Bhawan
New Delhi.

... Respondents

(By Shri R.V.Sinha, Advocate)

O R D E R(Oral)

The applicant is holding the post of Sweeper in the office of Respondent No.1. Her husband who was working in a similar capacity, was retired from service on medical grounds and the applicant had been appointed on compassionate grounds w.e.f. 29.10.1991. The husband of the applicant has been allotted a Government Accommodation No.K-327, Sewa Nagar, New Delhi w.e.f. 26.06.1986(Annexure A5). The applicant on appointment on compassionate grounds, requested for regularisation of the quarter in her name. On 29.4.1994 a recommendation letter was also sent by the Respondent No.1 to the Respondent No.2 to regularise the quarter in the name of the applicant but the allotment of her husband was cancelled by the Respondent No.2 on the ground of retirement w.e.f. 17.01.1992. On 9.10.1995 vide Annexure A14, Respondent No.2 also issued a letter stating that the aforesaid quarter had been sub-let by the husband of the applicant. A notice was

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also issued under Public Premises Act, 1971 on 22.3.1996 to applicant's husband stating that he had been in occupation the quarter under consideration unauthorisedly and also to show cause regarding the allegation of subletting the quarter. The applicant is aggrieved that despite her request for regularisation under the rules, two orders of cancellation have been issued vide Annexure A1 and A2 ordering the eviction, if the accommodation in question is not vacated.

14

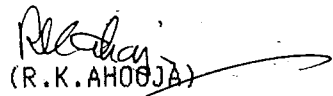
2. The respondents state in their reply that while the application for regularisation was being considered a surprise inspection of the accommodation in question carried out on 28.7.1995 showed that the family of the husband of the applicant were not in occupation and certain unauthorised persons were found living in the aforesaid quarter, though they claimed to be relatives of the applicant. A notice was issued in which an opportunity of personal hearing was also given. Since the applicant did not come up with satisfactory evidence, a conclusion was reached that the quarter was fully sublet and cancellation of the allotment was ordered. It was then discovered that the allotment of the quarter had already been cancelled due to retirement of the applicant's husband on medical grounds.

3. I have heard the counsel on both sides. The learned counsel for the respondents fairly concedes that since there was an order of cancellation on account of retirement of the original allottee, there was no ground for issue of the second cancellation letter. The said cancellation letter which was issued on 6.11.1995 (Annexure A2), is accordingly, quashed. We are now left with the cancellation and the eviction order vide Annexure A1 on account of the retirement

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of the original allottee. It is an admitted fact that applicant obtained a compassionate appointment on the retirement of the applicant's husband within one year. She also claims that she did not draw the House Rent Allowance and she was staying with her husband from the very beginning. On that ground she claims that she is entitled for regularisation of the said quarter in her name. Her request for regularisation apparently has not been considered in view of the intervening surprise inspection and the issue of orders A2 for cancellation on account of the alleged subletting. Now, that the cancellation and eviction orders A2 have been quashed, the respondents ought to consider the case of the applicant on merits and as per rules. Accordingly, the respondents are directed to consider the request of the applicant for regularisation of the quarter in her name within a period of two months from the date of receipt of a copy of this order. They will ofcourse be at liberty to make any inspection to ascertain whether the applicant is in ^{occupation} possession of the quarter in question or not. Till the disposal of the request of the applicant for regularisation, the applicant will not be evicted from the premises and she will be charged only normal licence fee. No costs.

15


(R.K. AHOOJA)
MEMBER(A)

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