

Central Administrative Tribunal  
Principal Bench, New Delhi.

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DA-1412/96

New Delhi this the 9th day of September, 1996.

Hon'ble Smt. Lakshmi Swaminathan, Member(J)

Sh. Pramod Kumar, ASI  
Delhi Police, IXth Battalion,  
DAP, Delhi.

Applicant

(through Sh. S.K. Sinha, advocate)

versus

1. Union of India, through  
Addl. Commissioner of  
Police (Admn.),  
PHQ, MSO Building,  
New Delhi.
2. Dy. Commissioner of Police,  
H.Q. III, P.H.Q. M.S.O. Building,  
I.P. Estate, New Delhi.
3. H.C. Kishan Chand,  
R/o Quarter No.8-3,  
P.S. Delhi Cantt., Delhi.

Respondents

(through Sh. Amresh Mathur, advocate)

ORDER(ORAL)

The applicant is aggrieved by the order passed by Respondent No.2, Dy. Commissioner of Police, H.Q.III. PHQ MSO Building, I.P. Estate, New Delhi dt. 8.3.95 cancelling the allotment of Quarter No.8-3, Type-II, PS Delhi Cantt., Delhi in his favour with immediate effect. He has alleged that the impugned order has been passed without any show cause notice and without giving him an opportunity to present his case.

2. The relevant facts of this case are that the applicant who was working as A.S.I. of Police with the respondents had applied for out of turn allotment of Government accommodation. After due consideration of

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his application on merits, it is stated that by order dt. 8.10.92 the applicant was allotted Government accommodation No.104, Type-II, P.S. Paschim Vihar. Since the accommodation was on the third floor and because of his mother's ill health and so on, the applicant made a request for a change of accommodation to the ground floor. The respondents by order dt. 30.9.94 allotted <sup>flat on B2</sup> another <sup>basis B2</sup> out of turn allotment on medical grounds in his favour and allotted him Quarter No.8-3, Type-II, P.S. Delhi Cantt. On the applicant's acceptance of this alternative accommodation on the ground floor, he was issued the occupation slip dt. 6.10.94. In the light of these orders, the applicant states that he surrendered the earlier accommodation allotted to him on 18.10.94. However, he could not take possession of the 8-3, Type-II accommodation as the previous occupant one Sh. Harbans Singh, A.C.P. (retired) was still residing in that quarter.

3. The respondents have in their reply admitted that the allotment of 8-3, Type-II quarter to the applicant had been done by mistake as their computer was not working properly. The result of these developments is that the applicant had not only lost the third floor accommodation by cancellation of the earlier allotted Quarter No.104, Type-II, P.S. Paschim Vihar but has also not been able to occupy the other quarter. The respondents have further submitted that as per the priority date of allotment, the allotment of 8-3, Type-II quarter to the applicant having been

made by mistake, it has been rightly allotted in favour of Respondent No.3. The priority date of allotment of the applicant is stated to be 17.6.1981 whereas that of Respondent No.3 is 27.11.1962. Therefore, the respondents' further action in allotting B-3, Tupe-II quarter to Respondent No.3 is not in contradiction of any rule and, therefore, this allotment cannot be cancelled at this stage.

4. From the <sup>above</sup> facts, it is very much apparent that it was on the orders passed by the respondents dt. 30.9.94, 8.10.94 & 18.10.94 that the applicant finds himself without any Government accommodation and out of the house in which he was living earlier, due to the mistake committed by the respondents.

5. The learned counsel for the applicant has also relied on a recent decision of this Tribunal in O.A.No.2332 of 1995 dt. 1.5.1996 in similar circumstances. Further, the respondents have not disputed the fact that the impugned cancellation has been done without complying with the principles of natural justice by way of issuing a show cause notice and affording a reasonable opportunity of ~~on this ground alone the respondents' action is vitiated.~~ hearing to the applicant. ~~and~~ The learned counsel for the applicant submits that a number of Type-II quarters are lying vacant and one of them could be allotted to the applicant immediately as the applicant is at present living in a rented quarter. He has also submitted that in view of the reasons already given by the applicant about his mother's illness, the respondents may consider allotting a ground

floor accommodation Type-II in Paschim Vihar itself, if possible. The learned counsel for the respondents, however, submits that he is unable to verify these facts but if there are any vacant quarters, the respondents can be directed to consider his case.

6. In the above facts, the order dt. 30.9.94 is quashed and set aside so far as it relates to the erroneous allotment of Quarter No.8-3, Type-II, P.S. Delhi Cantt. and consequently the order of 8.3.95 stands. However, on the facts and circumstances of the case, the respondents are directed to consider the request of the applicant and allot a suitable vacant Type-II quarter in Paschim Vihar, similar to the one he had earlier occupied but preferably on the ground floor or first floor, if possible, to the applicant within a period of one month from the date of communication of this order.

7. C.A. is disposed of as above.

No orders as to costs.

*Lakshmi S. aminathan*  
(Smt. Lakshmi S aminathan)  
Member(J)

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