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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

OA-1640/96

New Delhi this the 2nd day of April, 1997

Hon'ble Dr. Jose P. Verghese, Vice-Chairman(J)

Shri Mohammad Habeeb,
S/o Shri Gulzari,
R/o 11/129, Panchkuin Road,
New Delhi. Applicant

(through Shri B Krishan, advocate)

versus

1. The Director of Estates,
Directorate of Estates,
Ministry of Urban Affairs & Employment,
4th Floor 'C' Wing, Nirman Bhavan,
New Delhi-11.
2. The Estate Officer,
Directorate of Estates,
4th Floor 'B' Wing,
Nirman Bhavan,
New Delhi. Respondents

(through Shri S.M. Arif, advocate)

ORDER

delivered by Hon'ble Dr. Jose P. Verghese, V.C.(J)

The applicant in this case was allotted Government Quarter No.11/129 (Type-A), Panchkuin Road, New Delhi in February, 1995. On 21.11.1995, a team of two Assistant Directors of Estate were said to have made a surprise visit of the quarters and found that the applicant and his family were not residing in the said quarters rather the quarters was in occupation of one Smt. Sarupi Devi who was working in C.P.W.D. earlier, retired in July, 1995. On the basis of the said inspection report, the respondents cancelled the allotment of the applicant vide order dated 21.12.1995 and thereafter, after notice, an eviction order was passed vide order dated 13.6.96. Both the orders were

passed on the ground of sub-letting. The applicant has challenged both these orders and is seeking reallocation of the same quarters.

2. The respondents have filed a reply and stated that the inspection report has clearly found that one Smt. Sarupi Devi alongwith her son Sh. Ranjit Singh was found living in the quarters and the applicant was not living in the allotted quarters. The respondents did not take into consideration, the CGHS Token Card, the Birth Certificate of the applicant's child born on 2.10.1995 and the copy of the vacation report produced by Smt. Sarupi Devi on 22.3.1995, all the documents referring to the fact that the applicant was occupying the quarter. The contention of the applicant was that at the time of inspection report he was at work and he was not available at the quarters to be present when the inspecting team arrived at the quarters.

3. A copy of the inspection report was not supplied to the applicant except that a copy of the same was made available alongwith reply. We have perused the pleadings as well as the original records with respect to the occupation of this quarters. There is a certificate stating that Smt. Sarupi Devi has vacated the said quarters on 22.3.1995. It was stated in reply by the respondents that Smt. Sarupi Devi who was working in C.P.W.D. retired from service only in July, 1995. It is an admitted fact that the applicant has been allotted with this quarters in February, 1995. The crucial point that escapes the notice of the respondents is that in the

circumstances of the case Smt. Sarupi Devi and her Son Sh. Ranjit Singh did not vacate the quarter at the time of allotment of the quarters to the applicant, and even as per record the said quarters was vacated by Smt. Sarupi Devi more than a month afterwards. Further in accordance with the reply of the respondents it is shown that Smt. Sarupi Devi retired only in July, 1995 and it is not clear under what circumstances she vacated the quarter which he was occupying 4 months prior to her retirement. In any case the only reasonable conclusion is that Smt. Sarupi Devi was in the quarters in November, 1995 i.e. within six months of the retirement. Even assuming that Smt. Sarupi Devi who was occupant of the quarters have overstayed in the quarters for another six months which was permissible under the rules, the presence of Smt. Sarupi Devi and her son in the quarters by the inspecting team, ipso facto, does not prove sub-letting at the instance of the applicant. Something more was required by the respondents to prove that the applicant has sub-let the quarters to Smt. Sarupi Devi for some consideration or atleast some benefit must be shown to have been received by the applicant. In the present case, therefore, sub-letting could not have been a ground for cancellation of allotment as well as eviction of the applicant.

4. In the circumstances, we are of the view that the cancellation of allotment as well as eviction order has been passed on a wrong impression that the applicant has sub-let the quarter to Smt. Sarupi Devi who was

found at the site, while the maximum that could be said was that Smt. Sarupi Devi, who was the previous occupant, has over-stayed for five months in the same quarters which she was occupying while in service and that being permissible under the rules, the presumption of sub-letting cannot in any way be accepted.

5. In the circumstances, both the orders of cancellation as well as eviction shall stand set aside and the steps shall be taken to re-allot the quarters to the applicant in accordance with rules.

6. With the aforesaid directions, the O.A. is disposed of finally. No costs.


(Dr. Jose P. Verghese)
Vice-Chairman(J)

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