

Central Administrative Tribunal
Principal Bench

O.A. 2109/96

New Delhi this the 7th day of February, 1997

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

Shiv Lochan,
S/o Shri Sukh Dev Ram,
R/o Qr. No.3, Lodhi Road Complex,
New Delhi.

..Applicant.

By Advocate Shri J.C. Malik.

Versus

Director,
Directorate of Estates,
Nirman Bhawan,
New Delhi.

..Respondent.

By Advocate Shri R.P. Aggarwal.

O R D E R

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

The applicant, who had been allotted a Type-II Government accommodation at Qr. No. 3, Lodhi Road Complex, New Delhi under special quota on compassionate grounds as he is blind, is aggrieved by the order passed by the respondent dated 31.1.1996 cancelling the allotment.

In the order, the respondent has stated that the applicant has completely sublet the quarter in contravention of the provisions contained in SR 317-B-20 of the allotment of Government Residence General Pool Rules, 1963.

2. According to the respondent, two officials of the Directorate of Estates ~~as Respondent~~ had inspected the quarter in question and submitted a report on 4.12.1995 that the quarter allotted to the applicant was found in occupation of one Shri Daya Nath. The respondent as has further stated that the inspecting team reported that full sub-letting is suspected ~~and~~ thereafter a show cause notice was issued

8/

to the applicant ~~by notice~~ dated 28.12.1995 and he has also been afforded an opportunity of personal hearing on 16.1.1996 to show why the allotment of the quarter may not be cancelled on the ground of sub-letting.

3. The applicant has submitted copies of ration card and CGHS card to the respondent, who on the basis of materials on record and the fact that the allottee could not explain satisfactorily as to why no member of his family was found in the quarter and Shri Daya Nath was present, came to the conclusion that the applicant had sub-let the quarter. It was on this basis that the respondent had passed the impugned order dated 31.1.1996 cancelling the quarter in the name of the applicant.

4. The applicant had filed an appeal to the appellate authority against the order dated 31.1.1996 which has also been rejected by the order dated 21.8.1996. On a perusal of the impugned order dated 31.1.1996 and the subsequent appellate order dated 21.8.1996, it is seen that no reasons have been given by the authorities for coming to the conclusion that the applicant had sublet the quarter in contravention of the rules and it is only stated that they have found that the quarter, in question had been completely sub-let. However, in the ^{only} inspection report dated 4.12.95, it has been stated that 'sub-letting is suspected'.

5. The respondent has in his reply taken the stand that the applicant could not explain satisfactorily as to why no member of the family was found at the time of inspection and one Shri Daya Nath was present in the house. Shri R.P. Aggarwal, learned counsel for the respondent, has submitted that in the statement given by the applicant (Page 25 of the File No. 7/2/LRC/E/96 submitted by the respondent) he had

submitted that he does not know where Mr. Dayanath works whereas in the inspection report dated 4.12.1995 it is mentioned 'Haryana Emporium' below the signature of Mr. Daya Nath. However, looking at the inspection report and the other materials on record, it cannot be categorically stated that the respondent had conclusive evidence that the house was sublet as the report itself states that the sub-
^{letting} is only 'suspected' and no statements of neighbours have been taken. The applicant has also attached copies of his ration card, CGHS card as well as the gas connection. He has also enclosed a copy of the letter addressed by the National Afforestation and Eco-Development Board in which it has been stated by the Under Secretary to the Govt. of India that the applicant is living in the same quarter permanently since 1989. It is seen that both the disciplinary and the appellate authorities' orders are non-speaking and do not either refer to the materials placed before ^{the} or disclose the reasons for coming to the conclusion that the house in question has been completely sub-let in contravention of the rules.

6. In the above facts and circumstances of the case, the impugned orders dated 31.1.1996 and 21.8.1996 are quashed and set aside. The respondent is directed to pass a detailed and speaking order taking into account the evidence submitted by the applicant expeditiously, till which time the applicant shall not be physically evicted from the quarter.

7. O.A. is disposed of as above. No order as to costs.

Lakshmi Swaminathan
(Smt. Lakshmi Swaminathan)
Member(J)

'SRD'