

Central Administrative Tribunal
Principal Bench
New Delhi

OA-1038/96

(5)

Monday, this the 30th day of December, 1996

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

T.H. Nirmal,
R/o 746, Lodhi Road Complex,
New Delhi.Applicant

(By Sh. George Paracken, Advocate)

Versus

1. The Director,
Directorate of Estates,
Nirmal Bhawan,
New Delhi.
2. Executive Engineer,
Directorate General of Security,
Office of the Director, S.S.B.
Block- V (East)
R.K. Puram,
New Delhi.Respondents

(By Shri K.R. Sachdeva, Advocate)

O R D E R

Petitioner in this case was allotted government accommodation, quarter no. 746, Lodhi Road Complex, New Delhi on compassionate grounds by an order of Department of Estates dated 8.1.1990. He was married to Mrs. Shubra Chatterjee on 30th October, 1991. Before marriage, she was allotted government accommodation, again on compassionate grounds vide allotment letter dated 12.12.1988. On 7th December, 1995 respondents got the marriage of the petitioner confirmed and on 2.1.1996 a direction was issued to vacate one of the above two quarters in accordance with SR 317 B(4), according to which both husband and wife were not entitled to retain separate accommodation except under those circum-

stances mentioned in the rule itself. Immediately thereafter on 5.1.1996, Director of Estates was asked to take necessary action in order to make the petitioner vacate one of the two accommodations. Representation filed against these orders was rejected on 8th Feb., 1996 and while rejecting the same, respondents reiterated the stand of requiring the petitioner to vacate one of the accommodations. The petition was filed against these orders on 17.5.1996 and it has come up today for final hearing.

2. Mr. George Paracken, counsel for the petitioner contended that SR 317 B(4) is not applicable to the case of the petitioner since both the accommodations have been allotted, not as an incident of normal allotment rather by way of an exception to the rules that is to say as an out-of-turn allotment. Infact SR 315 B.25 is the basis of such scheme and in the present case the scheme dated 1.5.1981 applicable is at Annexure 'E' to the petition. This scheme issued under Rule 25 empowers the government to relax any of the provisions of the rules and to allot government accommodation in furtherance to Scheme/guidelines formulated under the said rules. The contention on behalf of the petitioner was that since both the allotments were under this scheme as referred above and not under Rule 4, cancellation order issued under order 4 is not valid and the scheme does not provide any rule for cancellation. It was also contended on behalf of the petitioner that in any event the petitioner has a right to notice so that he may choose one of the two accommodations and surrender the other.

3. Shri K.R. Sachdeva appearing on behalf of the respondents contended that the allotments are made under rule 25 in accordance with the power given to the government to formulate the scheme and a plain reading of rule 4 as well as 25 alongwith the Scheme, indicates that the cancellation order was in order and it cannot be validly faulted.

4. Without going into the rival contentions, a suggestion was made to the petitioner to surrender one of the accommodations immediately and retain the other with payment of normal rent, additional rent from 8th Feb., 1996 till the date of surrender, and without any other payment of penal rent. Both the parties have no objection if an order to that effect is passed. It was fair on both the parties to settle the issue in this manner and come to a conclusion of this case.

5. Hence, the following directions are issued:-

- (i) The petitioner may surrender one of the two accommodations mentioned above within four weeks from today i.e. on or before 22.1.1997;
- (ii) The petitioner alongwith his wife shall enter an undertaking to this court within one week from the receipt of this order to the effect, which of the accommodations they are going to vacate and on what date;
- (iii) The respondents are at liberty to charge normal rent for the accommodation to be surrendered and additional rent from 8th Feb., 1996 till the date of surrender, on the basis of the undertaking being filed in this court within a week.

5. Ordered accordingly. No costs.

(Dr. Jose P. Verghese)
Vice-Chairman

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