

Central Administrative Tribunal  
Principal Bench New Delhi.

✓ OA-1070/96  
OA-1071/96  
OA-1072/96

(2)

New Delhi this the 27th day of May, 1996.

Hon'ble Sh. B. K. Singh, Member (A)

OA-1070/96

Shri Gian Singh,  
Khallasi,  
3/15, SCH B, Rashtrapati Bhawan,  
New Delhi- 110 004.

Applicant

(through Sh. V. Shekhar, advocate)

versus

1. Union of India  
through Secretary,  
Ministry of Urban Development,  
Nirman Bhawan,  
New Delhi.
2. Director General  
C.P.W.D.,  
Nirman Bhawan,  
New Delhi.
3. The Under Secretary &  
Estate Officer,  
President Secretariat,  
Rashtrapati Sachvalaya,  
Rashtrapati Bhawan,  
New Delhi-110 004.

Respondents

OA-1071/96

Shri Dayal Chand,  
Khallasi,  
Qtr. No. 8/110, G-Point,  
President Estate Quarter s,  
New Delhi-110 001.

Applicant

(through Sh. V. Shekhar, advocate)

versus

4. Union of India  
through Secretary,  
Ministry of Urban Development,  
Nirman Bhawan,  
New Delhi.

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2. Director General  
C.P.W.D.,  
Nirman Bhawan,  
New Delhi.

3. The Under Secretary &  
Estate Officer,  
President Secretariat,  
Rashtrapati Sachivalaya,  
Rashtrapati Bhawan,  
New Delhi-110 004.

Respondents

DA-1072/96

Shri Lungi Singh,  
Khallasi,  
G.No.84, Teenmurti Compound,  
New Delhi.

Applicant

(through Sh. V. Shekhar, advocate)

versus

1. Union of India  
through Secretary,  
Ministry of Urban Development,  
Nirman Bhawan,  
New Delhi.

2. Director General,  
C.P.W.D.,  
Nirman Bhawan,  
New Delhi.

3. The Under Secretary &  
Estate Officer,  
President Secretariat,  
Rashtrapati Sachivalaya,  
Rashtrapati Bhawan,  
New Delhi-110 004.

Respondents

ORDER (ORAL)  
delivered by Hon'ble Sh. B.K. Singh, Member (A)

The applicants in the above mentioned three  
O.As are aggrieved by the order issued in public  
interest by the Competent Authority working in  
Rashtrapati Bhawan.

They have sought the following reliefs:-

- " (a) Command the respondents by issuing appropriate order/direction/directions to forthwith to withdraw the impugned orders dt. 9.2.96 and 19.2.96 & 6.5.96 annexed hereto and commonly marked as Annexure-A and Annexure-E Colly.

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- (b) and also direct the respondents to dispose the representation of the applicant dt. 26.2.95 and till then the impugned orders may not be given effect to.
- (c) direct the respondents to produce before this Hon'ble Tribunal the entire proceedings file in the office of the respondents pertaining to the transfer of the applicant, the status of the other employees, the order of eviction at the behest of the third respondent."

It is admitted that the Estate Officer has followed the provisions of Sections 4 & 5 of the P.P.E. Act, 1971 by launching an eviction and personal hearing to the applicants. After going through all the formalities the Estate Officer has passed an eviction order against them. Once it has been stated that these transfer orders are in public interest, we cannot interfere in it. The Hon'ble Supreme Court in a catena of judgements beginning from Gujarat State Electricity Board Vs. Atma Ram Sungomal Poshani (AIR 1989 SC 1433) have held that transfer is a condition of service and an employee has no choice in the matter. In case of hardship, the employee can file a representation and if the same is rejected, he has no option but to comply with the order. In case of Chief G.M. Telecommunications Vs. Rajendra Chandra Bhattacharya (1995 Vol.29 ATC 379) the Hon'ble Supreme Court have held that guidelines and instructions issued from time to time do not confer any vested right. These are merely directory and transfer being an incident of service, the court should decline to interfere unless malafides are proved or there is a breach of statutory rules. In

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case of State of M.P. & Ors. Vs. S.S. Kaurav & Ors. (ATC 1995(29) P.553) the Hon'ble Supreme Court have held that hardship or exigency cannot be considered by the Court/Tribunal as a ground for interfering in the transfer order issued either on administrative ground or in public interest. In case of U.Q.I. Vs. Ganesh Dass Singh (1995(30) ATC 629) the Hon'ble Supreme Court have held that judicial review under Article 226 of the Constitution in respect of transfers either in public interest or in the exigencies of public service or on administrative grounds is impermissible. In several other judgements in 1996 the same view has been reiterated.

As regards retention of house, the Hon'ble Supreme Court in case of Life Insurance Corporation of India Vs. Shiv Pd. Tripathi & Ors. (1996(1) Scale P.541) have held that the Court/Tribunal are not competent to issue any injunction order when the eviction proceedings have been completed as stipulated in Section 10 of the P.P.E. Act, 1971. They have quoted Section 10 of the Act, which reads as follows:-

"10. Save as otherwise expressly provided in this Act, every order made by an estate officer or appellate officer under this Act shall be final and shall not be called in question in any original suit, application or execution proceeding and no injunction shall be granted by any court or other authority in respect of any action taken or to be taken in pursuance of any power conferred by or under this Act."

regarding  
The matter/tenancy can be adjudicated upon

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but the legislative mandate is against any stayal in respect of eviction orders passed by the Estate Officer and approved by the Appellate Authority.

This being so, this Tribunal would not like to interfere in the transfer or in the eviction already passed against the applicants. Accordingly the applications are dismissed in limine at the notice stage itself.

(B. K. Singh)  
M(A)

/vv/

Attested

Bimla Devi

(बिमला देवी)

(BIMLA DEVI)

वरिष्ठ अधिकारी/Chief Officer

के शीर्ष प्रशासनिक अधिकारी

Central Administrative Tribunal

प्रधान भवन, नया दिल्ली

Principal Bench, Mansarovar House

नई दिल्ली/New Delhi-110001