

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.1102/1996

New Delhi, the 19th day of August, 1996

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

Shri Chotte Lal  
s/o Shri Fojdar Yadav  
H-15, Police Station, Kalkaji, New Delhi .. Applicant

(By Shri N. Safaya, Advocate)

Vs.

Union of India, through

1. The Commissioner of Police  
Police Hqrs., MSO Building  
New Delhi

2. The Dy. Commissioner of Police (Hq.1)  
Police Hqrs., IP Estate  
New Delhi

.. Respondents

(By Shri Raj Singh, Advocate)

ORDER(oral)

Hon'ble Mrs. Lakshmi Swaminathan

Heard both the parties.

2. In this application, the applicant has impugned the order dated 28.12.95 by which allotment of the Govt. quarter No.6-15, Type II, Police Station, Kalkaji, which has been allotted to the applicant by order dated 27.5.94, has been cancelled. In this order, 62 allotments have been cancelled including that of the applicant whose name is at Sl.No.50. In this impugned order, it is stated that the allotment on vacation to the Police Personnel who have not occupied the quarters is cancelled with immediate effect.

3. Shri Safaya, learned counsel for the applicant has strongly urged that as per the allotment letter dated 27.5.94, the applicant could not have taken possession of the quarter because the said quarter was in

occupation of one Shri Ram Kishan, Public Prosecutor, who retired from service on 31.5.94 and actually vacated it only on 16.5.96, i.e. after the date of passing of the impugned order on 28.12.95. In the circumstances, the learned counsel submits that no fault can be attached to the applicant in not occupying the said quarter as the same was already in possession of another person, and, therefore, the impugned order should be quashed and set aside and he should be given possession of qr. No.6-15, Kalkaji earlier allotted to him on vacation basis. (7)

4. This Tribunal vide interim order dated 21.6.96 directed the respondents to maintain status-quo when the quarter in question remained vacant. The applicant is residing in another smaller quarter, namely H-15, Kalkaji.

5. The respondents have filed their reply in which they have admitted the above facts. They have submitted that as per the policy decision taken by them for review of similar cases, allotment in favour of the police personnel who have been allotted accommodation on vacation basis but who have not actually occupied the said quarters was cancelled by order dated 28.12.95. They have stated that the applicant did not take possession of quarter No.6-15, Kalkaji in view of the fact that Shri Ram Kishan had not vacated the quarter as he had obtained a stay order from the competent court.

6. Shri Raj Singh, learned counsel has submitted the original records in which the aforesaid policy decision has been taken on 30.12.95. In the note dated 26.1.95

8.3

from the relevant file, it is stated that a number of quarters were allotted on anticipated vacation running into several months. It is also mentioned that there was some complaint regarding anticipated allotment which was in violation of seniority norms. In the above circumstances such cases were reviewed and action was taken to cancel the allotment of accommodation on vacation basis if the same has not been occupied by the allottees. The learned counsel submits that the allotment made in favour of the applicant by order dated 27.5.94 was itself on out of turn basis and not on seniority, which has since been revoked by the decision referred to above. In the circumstances, he submitted that the applicant is not entitled for any relief and the OA may be dismissed.

7. Shri Safaya, learned counsel submits that, without prejudice to the above, if the impugned order is not set aside, the applicant should not be treated as a person who has not occupied the quarter voluntarily and that he should be considered afresh for allotment in his turn.

8. I have carefully considered the arguments of both the counsel and the records. From the facts stated above, it appears that the applicant was given an out of turn allotment of Type II quarter by order dated 27.5.94 on the basis of vacation by the previous allottee. It is not disputed that the house in question was in possession of the previous occupant, Shri Ram Kishan, and the quarter itself was vacated only on 16.5.96 and, therefore the applicant <sup>t</sup>continued to reside in Qr.No. H-14 Type I, Kalkaji allotted to him. In the circumstances, on the basis of the order, until the

quarter allotted in his name fell vacant, the applicant cannot be stated to have an enforceable right for its occupation. It is also not disputed by the learned counsel for the applicant that the earlier allotment of Qr. No. G-15 to the applicant was itself on out of turn basis and not based on seniority. 9

9. In the above facts and circumstances, the decision taken by the respondents on the basis of which the impugned order dated 28.12.95 has been passed, namely to review <sup>and cancel</sup> such allotments, on receipt of the complaint, cannot be stated to be either arbitrary, unreasonable or illegal, which warrants any interference in the matter. Further, it is also relevant to note that the impugned order not only cancelled the allotment of the quarter to the applicant, but 61 other similarly situated personnel, who have also not occupied the quarters and for the same reason. Since the applicant is already in occupation of a Type I quarter, it cannot be stated that the applicant would be prejudiced by the impugned order. He will be entitled for allotment of Type II quarter in his turn, taking into account the particular facts, and in accordance with the rules.

10. In the result, I find no merit in this O.A. and, it is accordingly dismissed. No order as to costs.

*Lakshmi Swaminathan*  
(Mrs. Lakshmi Swaminathan)  
Member(J)

/gtv/