

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH

O.A.No.1196/97

Hon'ble Sh. R.K. Ahooja, Member (A)

New Delhi, this the 27 day of February, 1998

Surender Kumar  
Head Constable  
Delhi Police  
No.403/COMM  
Delhi.  
r/o Qr. No.57, Sector-3  
R.K.Puram,  
New Delhi.

... Applicant

(By Shri T.P.S.Rathore, Advocate)

Vs.

1. Commissioner, Delhi Police  
Police Head Quarters  
I.P.Estate, M.S.O. Building  
New Delhi.
2. Addl. Commissioner of Police (Admn.)  
Police Head Quarters  
I.P.Estate, M.S.O. Buildings  
I.T.O., New Delhi.
3. Deputy Commissioner of Police  
Smt. Anita Roy  
Police Head Quarters (III)  
I.P.Estate, M.S.O. Buildings  
I.T.O., New Delhi.
4. Estate Officer, Delhi Police  
I.P.Estate, M.S.O. Buildings  
I.T.O., New Delhi. ... Respondents

(By Shri Raj Singh, Advocate)

O R D E R

The applicant, Head Constable in Delhi Police, and who is an allottee of Quarter No.57, Sector-III, R.K.Puram, New Delhi, is aggrieved by the order A1 whereby the allotment of the said Govt. quarter has been cancelled, besides, debarring him for a further period of one year.

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2. The impugned order has been passed on the basis that he had constructed two rooms unauthorisedly on the terrace of the allotted Govt. Quarter and the same had also been subletted to some private person. This being in contravention of S.O. 3/93, after the show cause notice, the impugned order was passed.

(A)

3. I have heard the counsel. The case of the applicant is that he has made only a temporary construction on the terrace in order to accommodate his 84 years old father. On the other hand, the respondents say that the vigilance enquiry brought out that the applicant had constructed two rooms which had been rented out for Rs.500/- per month. I do not however consider that it is necessary to go into the dispute of fact as the impugned order is liable to be quashed on account of a basic infirmity.

4. As would be seen, the show cause notice at Annexure-A3 was issued on 17.3.1997 which called upon the applicant to show cause why the allotment may not be cancelled. It was also stated therein that the applicant's reply if any should reach the Deputy Commissioner of Police within ten days from the date of receipt of the notice. A copy of the letter was endorsed to the Incharge/P.C.R./Comm., for onward delivery to the applicant, dated 19.3.1997 and was received by the applicant as per the endorsement dated 20.3.1997. The respondents do not dispute that the reply of the applicant was received on 27.3.1997. But the impugned order, A1 of the Deputy Commissioner of Police states that "he has received the show cause notice but he did not submit any reply".

5. It would appear that the Deputy Commissioner of Police was not aware of the reply sent by the applicant dated 27.3.1997, which was sent by the applicant within the stipulated

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period of ten days. It is stated that the Deputy Commissioner of Police had heard the applicant. But since the submissions made by the applicant have not been indicated in the impugned order, it can not be said that the applicant had a proper opportunity to show cause since his written reply was altogether not taken into account. For this reason alone the impugned order is liable to be struck down.

(15)

6. I accordingly allow the OA. The impugned order, cancelling the ~~applicant~~<sup>allegation or</sup>, Annexure-A1 is quashed. The respondents will however be at liberty to pass a fresh order after taking into account the reply filed by the applicant. No costs.

  
(R.K. AHOOJA)  
MEMBER (A)

/rao/