

Central Administrative Tribunal, Principal Bench

O.A.No.1492/97
M.A.No.1592/97
M.A.No.2736/97

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

New Delhi, this the 9th day of January, 1998

Shri Alexander
s/o late Shri J.Arul Dass
R/o F-134
Nanak Pura, New Delhi. Applicant

(By Shri Harvir Singh, Advocate)

Vs.

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

2. Director of Estate
Nirman Bhawan
GOI
New Delhi.

3. Estate Officer
Directorate of Estate
Nirman Bhawan
New Delhi.

4. Junior Engineer(Civil)
In-charge of Enquiry Section Office
Sub-Division-4
PV MB Road
New Delhi.

.... Respondents

(By Shri R.V.Sinha, Advocate)

O R D E R (Oral)

The applicant who was a Telephone Operator in Army Headquarters was initially allotted a quarter No.70, Sector-IV, M.B.Road, New Delhi. On making a request for an higher category house, he was offered quarter No.F-194, Nanak Pura, New Delhi on 27.3.1996. The applicant says that he accepted the new allotment and shifted therein but when he went to hand over the possession of the earlier allotted house, he was told that he should first clear the electricity dues, if any. Thereafter he went to the office of DESU (now DVB) but despite numerous efforts made by him, the electricity bills amounting to Rs.10731.37 were not sent till 29.11.1996. In view of this position he could not clear the

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arrears of DESU till 24.1.1997 on which date he also obtained the vacation slip in respect of the earlier allotted accommodation. The applicant's grievance is that despite the knowledge of this fact and ignoring that the applicant had actually vacated the house and had not sublet it, the respondents have initiated the eviction proceedings under the Public Premises Act and even though he had obtained the vacation slip on 24.1.1997 passed the impugned eviction order dated 26.3.1997 and forcibly got his second house vacated.

2. The respondents in reply have stated that it was the duty of the applicant to get the dues cleared before vacating the house. As he failed to do so till 24.1.1997, the vacation slip could not be given to him. Under the Rules, as he had been in occupation of two houses, action had to be taken for cancellation of the second allotment and as he did not vacate the second house the eviction proceedings were initiated.

3. I have heard the counsel. The learned counsel for the applicant lays emphasis on the point that the fault did not lie with the applicant as it was DESU who had not issued the Electricity Bill. Secondly, he submits that the vacation slip having been obtained on 24.1.1997, also the same having been brought to the notice of the Estate Officer, the eviction orders should not have been passed. Shri R.V.Sinha, learned counsel for the respondents, on the other hand, has argued that the action of the respondents is strictly in accordance with the Rules on the subject and therefore, the same does not call for any interference.

4. I have considered the matter. It is an admitted position that the applicant did not obtain the vacation slip till 24.1.1997. Technically, therefore, he was in occupation of two

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houses, the first one earlier allotted to him and second one obtained on his own request for better category. This was in violation of the Rules. There may be some extenuating circumstances inasmuch as DESU did not, as alleged by the applicant/respondents, issue the Electricity Bill. The fact however that the Electricity Bill amounting to such a huge amount as Rs.10,000/- (approximately) was ~~pending~~^{due} indicates that the Bill was pending for quite some time. It was incumbent upon applicant to make efforts to get it cleared in time. Therefore, he cannot be totally absolve himself of the responsibilities for non-clearance of the Electricity Bill in time. The respondents have also carried out the eviction proceedings. While I agree with the learned counsel for the respondents that the action of the respondents cannot be faulted on technical grounds, I am also constrained to observe that after the vacation slip had been obtained on 24.1.1997, the respondents could have reconsidered the matter.

5. In the above facts and circumstances, I dispose of this OA with a direction that the respondents will consider the case of the applicant for a fresh allotment in accordance with his seniority without insisting on any period of debarment. The respondents may also allow the payment of damage rent dues in suitable installments. The learned counsel for the applicant states that the House No.F-194 is still lying vacant. If that be so, the respondents may consider its reallocation to the applicant. This will be subject to clearance of any dues which will be outstanding against the applicant.

6. The OA is disposed of as above. No costs.

R.K.Ahooja
(R.K.AHOOJA)
MEMBER(A)

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