

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

HON. SHRI R.K. AHOOJA, MEMBER (A)

OA NO.1504/1997

NEW DELHI, THIS 14TH DAY OF OCTOBER, 1997.

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1. SHRI BANARASI RAI

2. SHRI JAI SHANKAR RAI

both residents of:
159 H, Aram Bagh
New Delhi

...APPLICANTS

(By Advocate - Shri Harvir Singh)

VERSUS

1. UNION OF INDIA, through
Director, CBI
Lodhi Road Complex
New Delhi.

2. Superintendent of Police (Trg.)
Training Centre,
8th Floor, Lok Nayak Bhawan
Khan Market, New Delhi

3. Cabinet Secretariat
Government of India
Bikaner House Annexe
Shahjahan Road
New Delhi

4. Director of Estate
Directorate of Estate
M/o Urban Affairs & Employment
Nirman Bhawan
New Delhi

5. Assistant Director of Estate
Nirman Bhawan
New Delhi

6. Estate Officer
O/o Director of Estate
Nirman Bhawan
New Delhi.

..RESPONDENTS

(By Advocate - Shri K.C.D. Gangwani
for respondents No.1 and 2)

(Shri R.V. Sinha, for respondents No.4 to 6)

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ORDER

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The applicant No.1, who was serving as Head Constable in the office of respondent No.1, superannuated on 31.10.1996. His son, applicant No.2, also joined the Delhi Police as a Constable on 1.9.1985 and is since continuing as such. Applicant No.1 on his retirement made a representation on 21.11.1996 that the accommodation allotted to him be regularised in the name of his son as per rules. Thereupon, by letter dated 6.12.1996, an enquiry was made from respondent No.2 regarding the applicant's transfer and also any HBA he may have taken. It appears that the applicant No.1 was working in the Training Division of CBI, which was shifted lock, stock and barrel to Ghaziabad. Applicant No.1 states that while such a shifting had taken place, there was no specific mention about his transfer. He further stated that it was stated by respondent No.5 to respondent No.2 that he had drawn HBA for construction of a house but the same had not been completed nor had he been provided any accommodation in Ghaziabad. The applicants are aggrieved that without examining the matter properly, the respondents have cancelled the allotment of the quarter and passed the eviction order dated 12.6.1997. They have now come before this Tribunal seeking a direction to set aside the impugned orders of cancellation of allotment and eviction and to further direct the respondents to consider the case of applicant No.2 for regularisation of the said accommodation in his name.

2. The respondents No.1 and 2 in their reply have stated that there is no specific relief claimed by the applicants. On merits, they say that respondent No.2,

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i.e., SP (Training), Training Centre, CBI, had informed respondent No.5, Assistant Director of Estates, that the working staff of CBI Training Division, Lok Nayak Bhawan, New Delhi, was shifted to CBI Academy, Ghaziabad, in January 1996. However, subsequently by letter dated 11.4.1997 addressed to Deputy Director of Estates, it was clarified that applicant No.1 was never transferred and was posted in the Training Centre till the date of his retirement.

3. Reply has also been filed on behalf of respondents No.4 to 6. They state that the applicant No.1 had been allotted General Pool accommodation when he was working in the office of CBI. Applicant No.2 is working as a Field Assistant in the Cabinet Secretariat. After the request for regularisation was received, it was found that applicant No.1 had retired as Head Constable from the CBI Academy, Ghaziabad. The Director of Estates did not have any knowledge about this transfer and as such a letter was sent to CBI administration Ghaziabad to enquire about his transfer. In reply (R-4), it was clarified that applicant No.1 was posted in CBI Training Centre at Lok Nayak Bhawan and the said Division was shifted to Ghaziabad. It was further clarified that he had been sanctioned HBA of Rs.45,000 for acquiring a flat from the Arunodaya Cooperative Group Housing Society. On that basis a revised cancellation of allotment was made for applicant No.1 with retrospective effect on the basis of his transfer to an ineligible office, that is, CBI Academy, Ghaziabad. On that basis also, the applicant No.2 could not be given ad hoc allotment and regularisation of the quarter in question. The respondents No.4 to 6 have stated that SP, CBI Training Centre, vide its letter dated 11.4.1997 intimated that applicant No.1 was never posted in the CBI Training

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Centre till the date of his retirement and that the earlier letter of 11.12.1996 was issued inadvertently. However, as the accommodation had already been cancelled, the request of the applicants was rejected.

4. I have heard the counsel for the parties. Shri Harvir Singh, 1d. counsel for the applicants, argues that since CBI itself has clarified that the applicant was never transferred to Ghaziabad, the very basis of the cancellation of allotment disappears and the order of cancellation of allotment is illegal. He further submits that though applicant No.1 had obtained HBA of Rs.45,000 for acquiring a flat in a group housing society, the same had not been given to him as the construction had not been completed. He fairly submitted that applicant No.2 would undertake to give up the ad^{hoc} allotment as soon as the said flat is offered to applicant No.1.

5. I have considered the matter carefully. Since it is an admitted position that the CBI has clarified that applicant No.1 was never transferred from Delhi to Ghaziabad and the earlier intimation to that effect was given inadvertently, the impugned order of cancellation of allotment has to be set aside. The applicant No.1 can also not be considered as a house owner till the flat in the group housing society is offered to him, for which he has drawn HBA.

6. In view of this position, I quash both the impugned orders of cancellation of allotment and eviction and direct respondents No.4 and 6 to consider the request for regularisation of the quarter in the name of

applicant No.2. This will be done within two months of the date of receipt of a copy of this order. It is further ordered that in case the quarter in question is regularised in the name of applicant No.2, he will be liable to vacate it within two months of the offer of flat from the group housing society to applicant no.1, as per the undertaking given on behalf of applicants by their learned counsel Shri Harvir Singh.

The O.A. is disposed of accordingly. No costs.


(R.K. AHOOJA)
MEMBER (A)

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