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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

O.A. No. 477/1997

New Delhi this the 27th Day of February 1998

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

Shri Bhupender Nath Singh,
R/o 870/S-7, R.K. Puram,
New Delhi
(working as Chowkidar with Deptt.
of Agriculture & Cooperation, Govt. of
India, New Delhi

Petitioner

(By Advocate: Shri R.N. Singh & M.P. Singh)

-Versus-

1. Union of India,
M/o Urban Affairs & Employment,
Nirman Bhawan,
New Delhi.
(Through the Secretary)
 2. The Director,
Directorate of Estates,
Nirman Bhawan,
New Delhi.
 3. The Estate Officer,
Directorate of Estates,
Nirman Bhawan,
New Delhi.
 4. The Director,
Directorate of Extension,
Deptt. of Agriculture, IASRI Campus,
Puse, New Delhi
- Respondents

(By Advocate: Shri S. Mohd. Arif)

ORDER

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

The applicant an allottee of Government Accommodation bearing No. 870, Sector 7, R.K. Puram, New Delhi is aggrieved by the order of cancellation of allotment on the ground of subletting issued vide Annexure A and order Annexure B, whereby he has been asked to vacate the premises.

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2. The facts of the case, in brief, are that the inspection of the premises was carried out by a team of the Directorate of Estates on 30.12.1995. The team found one Shri Surender Singh and Smt. Subhanti Devi on the premises. It was also found that neither the allottee nor any member of his family was available. Suspecting subletting, a report was made by the Inspection Team. Thereafter a show cause notice dated 24.1.1996 was issued to the applicant. The applicant thereafter appeared before the concerned officer and produced photo copies of the ration card/CGHS card but he could not explain the presence of Shri Surender Singh and Smt. Subhanti Devi satisfactorily since their names did not appear in the ration card or in the CGHS card. The competent authority thereupon decided that the quarter was fully subletted and ordered the cancellation of the allotment on 26.4.1996. An appeal was preferred by the applicant. On being called by the appellate authority the applicant requested for sometime to give proof regarding the status of Shri Surender Singh and Smt. Subhanti Devi. On his failure to establish that these two persons were his relatives and were on a short visit with him, the appellate authority rejected the appeal vide order dated 12.9.1996.

3. Shri R.N. Singh, learned counsel who appeared for the applicant submitted that sufficient documentary proof was produced by the applicant by way of ration card and CGHS card to show that he was living in the allotted accommodation. More than that, he also

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produced a Certificate from nearby school that his daughter was studying there. He also submitted that as certified by his office, the applicant was on leave during which period the Inspection Team had visited the premises. His own brother Shri Surender Singh and Smt. Subhanti Devi had meanwhile come to Delhi to get medical treatment i.e. the reason they were found on the premises. The applicant has also produced a certificate to that effect from the Mukhiya of the village annexed at page 24 of the paper book.

4. I have considered the matter carefully. Photostat copy of the certificate from Mukhiya, Gram Panchayat Raj, Sinosi annexed by the applicant is dated 5.8.1996. On the other hand, the appellate order is dated 30.7.1996. Respondent's version that no such certificate was produced by the applicant before the appellate authority is thus established. The applicant himself admits that at the time of the inspection he had gone to his village along with his wife and children. He also admits that Shri Surender Singh and Smt. Subhanti Devi were living in the house because they had come to Delhi for medical treatment. In the circumstances it cannot be said that there was no evidence before the deciding authority as well as before the appellate authority on the basis of which the ultimate conclusion arrived at could not be based.

5. Learned Counsel for the applicant has sought to rely on the judgement Bhupender Singh Vs. Union of India and others in O.A. No. 2072/90 decided on 18.1.1991 (1993) 23 ATC 113 in which it was held that a

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one-time casual enquiry cannot render the other pieces of evidence irrelevant. In that case it was held that conclusion of subletting can be arrived at on the preponderance of probabilities but the evidence must be adequate. The ratio of this order cannot be of any help to the applicant since the Tribunal had also held that if the respondents could have established that the applicant was not staying in the said quarter but somewhere else during the period when the inquiry was made, it warranted the conclusion that the applicant might have sublet the premises. In the present case the applicant was admittedly not staying on the premises though his explanation is that he had gone to his village along with his family after taking leave from his office.


6. It was also argued by the learned counsel for the applicant that the Tribunal has held in Bhupender Singh (supra) that subletting does not include a casual guest. According to him this was the status of Shri Surender Singh and his wife. The burden of proof in the present case was on the applicant to establish that Shri Surender Singh was a casual guest. This he failed to do.

7. In my view the scope of judicial review is a limited one. So long it has been established that the deciding authority and the appellate authority had some evidence for reaching the impugned conclusion, the Tribunal is not required to reappraise the evidence and to substitute its judgement in place of the concerned authority. The applicant was given adequate

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opportunity to explain the position, both at the level of the deciding authority and before the appellate authority. That being so I do not find any irregularity either on the impugned orders.

For the aforesaid reason, the OA is dismissed.
There is no order as to costs.


(R.K. Ahooja)
Member (A)

Mittal