

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

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

O.A. NO.79/1997

NEW DELHI, THIS 8th DAY OF AUGUST 1997

SHRI O.P. CHAUDHARY
S/o Sh. Sitaram Chaudhary
R/o I-337 Sarojini Nagar
New Delhi-23

...APPLICANT

(By Advocate - Shri V.K. Rao)

UNION OF INDIA, through

1. Director
Directorate of Estates
Nirman Bhawan
New Delhi.

2. The Superintending Engineer
P.W.D., Dn. V-Circle VI
MSO Building, I.P. Estate
New Delhi.

3. The Executive Engineer
J Division
Central public Works Department
East Block, R.K. Puram
New Delhi-22

...Respondents

(By Advocate - Shri R.P. Aggarwal)

ORDER

The applicant while working as a Junior Engineer in Sarojini Nagar Enquiry Office of CPWD was allotted quarter No.I-337, Sarojini Nagar as an essential staff vide order dated 27.7.1985 (A-2). He was transferred to PWD Division Division-V w.e.f. 25.9.1990 but he continued to stay in the allotted quarter in Sarojini Nagar. On 6.2.1996, a notice was received by him signed by Executive Engineer, J Division, CPWD (A-1) directing him to vacate the said quarter. The applicant

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submits that he made a representation dated 20.2.1996 explaining that he was allotted the quarter on the condition that his post was attached to essential duty and though he had been transferred to another Division at Pusa, he was still performing the same nature of duties and therefore he should be allowed to retain the quarter at Sarojini Nagar. He also approached his Executive Engineer at his new place of posting and got a recommendation that if he was required to vacate the quarter at Sarojini Nagar, ~~the~~ considering the essential nature of his duties in the enquiry office at ITI Pusa, he should be allotted one of the vacant quarters available at his new place of posting. The applicant is aggrieved that no action was taken on the recommendation of his Executive Engineer. He has therefore approached this Tribunal against the order A-1 dated 13.11.1996 directing him to hand over vacant possession of the quarter within 15 days, and letter (A-2) whereby his request to retain the quarter upto May 1997 in view of the academic session of his three school going children has been rejected. He has also sought a direction that either he should be allowed to stay in the present quarter or in the alternative the respondents be directed to allot him a quarter at ITI Pusa.

2. The respondents in their counter have explained that the quarter presently in occupation of the applicant belongs to the General Pool under the Director of Estates. In 1982, it had been declared to be in a dangerous condition and was handed over to CPWD for repairs. However, after the repairs had been undertaken, it was not handed back to the Director of Estates but instead had been allotted to the applicant as an essential staff attached to the Sarojini Nagar enquiry office. In a case before the Supreme Court in S.S. Tiwari vs. UOI, the CPWD have given an undertaking that all the quarters which had been declared dangerous and had been handed over to CPWD for repairs would be made available and

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handed back to the Director of Estates. The respondents were thus duty bound under the orders of the Supreme Court to hand over the quarter in question to the Director of Estates. Even otherwise, the applicant was no longer posted at Sarojini Nagar office and under the terms and conditions of the allotment, he was required to vacate the quarter on his transfer.

3. I have heard the counsel on both sides. The ld. counsel for the applicant Shri V.K. Rao submitted that the respondents had not included the particulars of the quarter in question in the affidavit filed by them before the Supreme Court under the S.S. Tiwari case. Therefore, this quarter ~~had~~ did not come within the purview of the directions given by the Hon'ble Supreme Court. Further, the applicant was still on essential duty in a different Division and he was therefore entitled to the retention of the quarter either at Sarojini Nagar or alternatively at Pusa. The applicant has three school going children, he has no other house in Delhi and there was no indication that any other essential staff at Sarojini Nagar required the quarter in question and the respondents had themselves allowed the applicant to continue in peaceful possession for the last six years even after his transfer in 1990. He therefore urged that the applicant be allowed to continue in the quarter till alternate accommodation, as recommended by the Executive Engineer at Pusa, was allotted to him in exchange.

4. I have carefully considered the above arguments but find no merit therein. The applicant had not been allotted the Government accommodation in his own turn. The quarter in question was allotted to him in the exigencies of service because he was on essential staff of the enquiry office at

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Sarojini Nagar. The terms of the allotment clearly stated (A-2) that "this allotment is made for the period you remain to 'G Division' as J.E. incharge of I/G Sub-Division, Sarojini Nagar." It was also made clear that the allotment did not confer any right for regular accommodation under General Pool and an undertaking was also given by the applicant that he will vacate the accommodation and he would not be entitled for alternative accommodation in lieu of the quarter in question. The allotment of accommodation as an essential staff when the allottee is not otherwise eligible for regular accommodation does not create a vested right for out of turn allotment once he is no longer discharging essential duties. In the normal course, such an allottee has to make way for the essential staff coming in his place. The applicant admittedly is no longer in the enquiry office at Sarojini Nagar and therefore in terms of the letter of allotment and the undertaking given by him he is not entitled to continue in the accommodation.

5. The applicant in his rejoinder has not been able to refute the statement of the respondents that the quarter presently in his occupation belonged to the General Pool under the Director of Estates and that it had been handed over to CPWD for repairs. The applicant says that the direction of the Supreme Court only covers such houses which had been handed over to CPWD for repairs from 1990 onwards while the present accommodation had been handed over to CPWD ~~since~~ 1982. I have not been shown the relevant directions of the Supreme court that there is to be a distinction between the houses which were handed over for repairs before or after 1990. I have therefore no reason to doubt the averment of the respondents that they are required in terms of their undertaking before the Supreme Court to hand over the vacant possession of the quarter after repairs to Director of Estates.

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6. In so far as the question of alternate accommodation is concerned, this is a matter apart from the question of vacation of the present quarter. The applicant himself had, while approaching the Tribunal, stated in the relevant column that he be allowed to stay till May 1997 in order that the studies of his children are not disturbed during the academic session. We are already in August 1997 and the applicant has been able to continue in the accommodation in question under the protection of interim orders of this Tribunal. Therefore, the vacation of the quarter at this stage would not adversely affect the studies of his children. As regards the alternative accommodation, it is for his superiors in the Department to determine whether his work is of such nature that he should be given accommodation under the essential category.

7. In the facts and circumstances of the case and in the light of the above discussion, the O.A. is dismissed. No costs.

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

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