

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

O.A. No. 2428/94
T.A. No.

199

DATE OF DECISION

17-1-1997

Sh. Bhopal Singh

Petitioner

Sh. J.C. Madan

Advocate for the Petitioner(s)

Versus

Director of Education &
 Ors.

Respondent

Sh. B. S. Gupta through
 proxy counsel Sh. S. K. Gupta

Advocate for the Respondent

CORAM

The Hon'ble Mr. Lakshmi Guaninathan, Member (J)

The Hon'ble Mr.

1. To be referred to the Reporter or not? *Yes*

2. Whether it needs to be circulated to other Benches of the Tribunal?

Prinelle
 (Smt. Lakshmi Guaninathan)
 Member (J)

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O A No. 2428/94

New Delhi this the 17th Day of January, 1997

Hon'ble Smt. Lakshmi Swaminathan, Member (J)

Shri Bhopal Singh, Peon,
S/o Shri Kalli Ram,
r/o Qr.No.2, G.G.S.S. School,
C.R.Park, New Delhi-110019

(By Advocate Shri J.C.Maden)

.... Applicant

Versus

1. The Director of Education,
Govt.of N.C.T.of Delhi,
Old Secretariat, Delhi.
2. Deputy Director of Education,
District South(South S-19),
Defence Colony, New Delhi.
3. Mrs Joginder Luthra,
Ex.Principal, Govt.Girls S.S.(Composite)
School, C.R.Park, Kalkaji, New Delhi.
4. The Estate Officer, Delhi Administration,
Govt.of N.C.T.of Delhi,
Vikas Bhawan, I.P. Estate, New Delhi-2

.... Respondents

(By Advocate Sh.B.S. Gupta, learned counsel
through proxy counsel Sh. S.K. Gupta)

ORDER (ORAL)

This application has been filed by the applicant being aggrieved by the order dated 29.11.1994 (Annexure A-1) issued by Respondent 4 for vacating the residential accommodation occupied by him in the premises of the Government Girls Senior Secondary School (GSSS), Chitranjan Park, New Delhi. The applicant relies on the certificate (Annexure A-3) issued on 13.6.1980 that quarter No.2 has been allotted to him while he was functioning as Sweeper. By the order dated 11.8.92, the respondents appointed the applicant to the post of Peon by change of his cadre in the same scale of pay and posted him in the South District. Later, the applicant was transferred by office order (Annexure A-5) from GSSS, Chitranjan Park, New Delhi to Government Boys Senior Secondary School (GSSS) vice one Shri Rajpal who has retired as Sweeper. The applicant

Claims that since he has put in more than 21 years of service, he is entitled to continue in the same quarter. The applicant has also submitted that in the case of S/Shri Virender Rawat, Murlidhar Yadav, Nar Bahadur and Vijay Yadav, even though their cadres have been similarly changed, they have been allowed to continue in the same quarter they had occupied previously even after posting to other Schools/Offices. He further claims that ever since his allotment of the quarter No.2 in GSSS, Chitranjan Park, he has not been drawing any House Rent allowance even after his transfer to the GSSS, Kalakaji. According to the applicant, the impugned order had been passed by Respondent 2 as a result of the complaint lodged by him against Shri Mata Parshad who had been allotted quarter No.1 in the same school that he was creating nuisance for the applicant and his family and that he had sublet his quarter. In the circumstances, the applicant has sought quashing of the impugned order dated 29.11.1994 and a direction to Respondent 4 to allot him an alternative accommodation. The Tribunal by interim order dated 14.12.1994 had directed the respondents not to dispossess the applicant from the aforesaid quarter which order had been continued till date.

2. The respondents have filed a reply to the amended application. Their main contention is that the staff quarter attached to the school building is meant only for the special staff, namely, Chowkidar and Sweepers. They have submitted that since the applicant's cadre had been changed to that of Peon and transferred from the school at Chitranjan Park to Kalakaji, he cannot be allowed to stay in that school. The out house quarter No.2 occupied by him has to be given to his substitute Smt. Dropti Devi, a Safai Karamchari for which purpose the impugned order dated 29.11.1994 had been issued to him to vacate the quarter. As regards the allegations made by the applicant with respect to S/Shri Vijay Yadav, Virender Rawat, Murlidhar and Nar Bahadur, the respondents state as follows:-

Ys

* As regards quarters of Vijay Yadav etc. are concerned. Vijay Yadav is occupying the staff quarter attached to the building under control of Food & Craft Institute.

Virender Rawat was allotted the staff quarter on compassionate Grounds. Matter sub-judice before the Court. Murlidhar is not residing in the staff quarter attached to the school. He has since vacated the school accommodation on his transfer from the school. Nar Bahadur the person is not residing in the staff quarters attached to the school premises but he is occupying accommodation in a building of a College under Delhi University at a distance of 3 K.M."

In the circumstances Shri S.K. Gupta, learned proxy counsel for the respondents has submitted that the applicant is unauthorisedly continuing to occupy the accommodation after he has been transferred to the Kalkaji School and has also prayed for vacation of the interim order.

3. I have carefully considered the pleadings and the submissions made by the learned counsel for the parties. The Tribunal by order dated 29.8.96 had directed the respondents to produce the relevant records pertaining to the change of cadre of certain posts of 'Group 'D' and option, if any, exercised by the applicant for this change of cadre. Although a number of opportunities had been sought and granted to the respondents to produce the records, they have unfortunately not done so. They have also failed to produce the relevant rules empowering them to allot the quarter, in question, to Chowkidar/Sweepers attached to the particular schools. The explanation given by the respondents regarding allowing the four other named persons to retain the quarter, excepting perhaps the case of one of them which is stated to be subjudice, is vague and unsatisfactory. However, the conclusion that even these other persons have been allowed to retain the quarter even after their transfer from one school to another does not appear to be ^{13/2/96} the basis of any ~~discerning~~ criteria and rules. In other words, it seems to be on the basis of pick and choose policy and,

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therefore, the applicant cannot rely on those instances for enforcement of any right. Further the applicant has himself submitted that he has not applied so far to Respondent 1 for accommodation as per his entitlement for General Pool Accommodation, because he was already in occupation of the Govt. accommodation allotted to him in GGSSS, Chitranjan Park. The plea of the applicant regarding bias on the part of Respondent 2 is without any basis or merit and it is accordingly rejected.

4. After the applicant was transferred from GGSSS, Chitranjan Park to GBSSS, Kalkaji in 1992, till passing of the impugned order on 29.11.1994, admittedly the respondents have allowed the applicant to continue to occupy the premises.

Taking into account the totality of the facts of the case, therefore, this OA is disposed of with the following directions:-

(i) The applicant shall make representation to Respondent I bringing out the details of the case seeking permission to allow him to continue in the premises allotted to him in GGSSS, Chitranjan Park, within one week from the date of receipt of a copy of this order. Respondent I shall consider the representation and pass a detailed and speaking order within one month from the date of receipt of the representation. Till that date, the applicant shall be allowed to continue to occupy the quarter ^{No} 2 in GGSSS, Chitranjan Park. This shall not, however, preclude the applicant from making an application for regular allotment of the quarter of the entitled type before the Estate Officer in accordance with the rules.

No order as to costs. Lakshmi Swaminathan
(Smt. Lakshmi Swaminathan)

Member (J)

1 SRD