

(B)

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.2536/1994

New Delhi, this 26th October, 1995

Hon'ble Shri B.K. Singh, Member(A)

1. S.C. Sharma
T-2(3-4) Upper Anand Parbat
New Delhi-5
2. Smt. Usha Sachdeva
T-3(1-2) Upper Anand Parbat
New Delhi-5
3. D.K. Sharma
T-4(1-2) Upper Anand Parbat
New Delhi-5
4. Smt. Padmini Nair
T-7(1-3) Upper Anand Parbat
New Delhi-5
5. Raj Kumar Sengar
T-7(6) Upper Anand Parbat
New Delhi-5

.. Applicants

By Shri A.K. Trivedi, Advocate

Versus

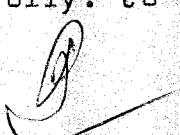
Union of India, through

1. Secretary
Ministry of Defence
South Block, New Delhi-11
2. Station Commander
Station Headquarters
Delhi Cantt-10
3. Commanding Officer
212, Rocket Regiment
c/o 56 APO

Shri B.K. Aggarwal, Advocate

ORDER (oral)

This OA 2536/94 has been filed against the direction of Respondent No.3 requiring the applicants to vacate the quarters allotted to them vide order dated 6.10.1994, a copy of which has been filed as Annexure A-colly. to the OA.


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2. I find allotment letters have been issued in some cases but the language used is very vague. of the In one/letters, it says for '6 months' and in other letter it says 'till further orders'.

For example, the allotment letter dated 27.9.75 issued to Applicant No.1 does not indicate whether it was ^a regular allotment. The relief prayed for in this OA is to set aside and quash the orders dated 6.10.94 and 12.11.94.

3. Order dated 6.10.94 has been communicated to 14 persons, including the applicants, wherein it has been stated that no allotment letter has been issued to the unit/individual by the Stn. HQ, Delhi Cantt and the Division has been asked to send a copy of allotment letter issued by Stn HQ, Delhi Cantt for information and necessary action by 10.10.94; in case no information/received by due date, individuals will be declared unauthorised occupants and necessary eviction action will be initiated against them. Letter dated 12.11.94 from R-3 were addressed to the individuals concerned instructing them to vacate the married accommodation which were meant for defence personnel by 25.11.94 failing which eviction proceedings would be started against them.

4. Heard the learned counsel for the parties and perused the records of the case. On notice, the respondents have filed their reply contesting the OA and the grant of relief prayed for.

5. The learned counsel for the applicants stated that they have been living in these quarters for quite some time although there was no regular allotment to that effect and the order indicates that these were temporary allotments or until further orders.

6. The learned counsel for the respondents hammered the point that civilian employees working in the defence establishment are not eligible for allotment of defence pool quarters meant for defence personnel and that they are eligible for general pool accommodation and they should have approached the Dte. of Estates for registering their names with it for allotment of general pool accommodation. When the married quarters remain vacant, they are temporarily allotted to civilian employees but once the defence personnel arrive, civilians are ordered to vacate and the defence personnel are accommodated who are required to go in the field for operational duties, leaving behind their families in the said quarters. Thus the classification is based on a valid and intelligible criteria that these married quarters should be allotted only to the defence personnel who have to attend to duties in the field leaving their family behind. Defence personnel are not eligible for allotment from general pool.

7. However, once the allotment is cancelled, the Estate Officer (Respondent No. 3) has to follow the procedure based on Section 4 & 5 of PPE Act, 1971 and give reasonable opportunity to the allottees to be heard before they are evicted from the quarters or before any damage rent is levied without taking recourse to Section 7 of PPE Act, 1971.

④
Concurred
Vide Court's
order dated
20.11.95
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JP

These persons have put in quite a bit of service and as such the question of alternative accommodation should have been considered before asking them to vacate the said quarters. When such proceedings are resorted to, the Hon'ble Supreme Court have held in the case of Harish Chander Vs. UOI in Shiv Sagar Tiwari Vs. UOI & Ors. in Civil writ petition No.585/1994 that the aggrieved party has to approach the Dte. of Estates. In this case, ~~R-A~~ is designated as Estate Officer. Similar view has been held by the full-bench of CAT in the case of Rasila Ram CAT-Vol.I-346. When the notices were sent for vacation and also intimation was communicated to all the applicants, they should have approached the Estate Officer. I do not find the classification arbitrary as it is based on an intelligible criteria. The orders passed can not be treated as arbitrary or illegal. However, the applicants are directed to present their case before the designated officer functioning as Estate Officer within two weeks. The respondents are directed to dispose of the matter regarding allotment of alternative accommodation if the same are available within two weeks thereafter.

With these directions, this DA is disposed of but without any order as to costs.

(B.K. Singh)
Member(A)
26.10.95

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