

(X)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

PRINCIPAL BENCH

NEW DELHI

O.A. No. 2568/1994

Date of decision 20.3.95

CO RAM

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

Shri Urba Dutt,
Son of late Shri Bachi Ram Pant,
R/o Quarter No. 1485, Type-II,
NH IV, Faridabad.

... Applicant

(By Advocate Shri S.K. Gupta)

Vs.

1. Union of India, through
Director of Estates,
Directorate of Estates,
Ministry of Urban Development,
Nirman Bhawan, New Delhi.
2. Assistant Director (Estates)
Directorate of Estates,
(Regions Section), Nirman Bhawan,
New Delhi
3. Assistant Estate Manager (Estates Officer),
GOI, NH IV, Faridabad (Haryana)
4. Commanding Officer,
56 ASP Air Force Station,
Faridabad.

... Respondents

(By Advocate Shri M.K. Gupta)

ORDER

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

This application has been filed by the applicant to quash the eviction order dated 15.12.1994 (Annexure A-1) and for a direction to the respondents to consider all the evidences that the applicant had submitted to the competent authority on 12.12.1994 (Annexure A-10 collectively).

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2. The brief facts of the case are as follows:-

The applicant, who was working as a Cook in the Indian

Air Force in ~~the~~ Faridabad, had been allotted quarter

No. 1485/Type II, NH IV, Faridabad by the respondents.

The allotment of the quarter had been cancelled w.e.f

24.12.1991 on the ground that he had sub-let the

quarter to some one else. The appeal filed against

the cancellation order was also rejected vide order

dated 15.7.1992. Against these orders of cancellation

of the allotment of quarter, the applicant filed O.A.

No. 402/93. The Tribunal dismissed the O.A. and also

withdrew the interim order passed on 19.2.1993 vide the

judgment dated 13th May, 1994 (Annexure A-4) subject

to the following directions:-

"Under the circumstances, I see no reason to interfere in this matter at this stage, it will be open to the applicant to show cause before the Estate Officer under Section 4 of the PP(EOUG) Act, 1971 and satisfy him on the basis of such evidence as he can furnish, that in fact he had not sublet the premises.

With these observations, this application is dismissed and the interim orders passed on 19.2.93 are withdrawn. No costs."

3. In pursuance of the directions of the Tribunal, the respondents had issued a show-cause notice and the applicant submitted further evidence to the competent authority on 12.12.1994. According to the applicant, the competent authority, namely, respondent No. 3 has passed the impugned order dated 15.12.1994 without taking into consideration the evidence adduced before him and directed him to vacate the said premises within 15 days of the date of publication of that order. The main ground taken by the

applicant is that respondent No. 3 had passed the impugned order dated 15.12.1994 in violation of the observation made by the Tribunal in para 6 of the judgment dated 13.5.1994 (reproduced above) as he did not consider the evidence submitted by the applicant, namely, the admission ticket of his daughter issued by the University of Delhi, the gas agency card, the CGHS card and a letter, in which the address given is Qr.No. 1485/2 N.H.IV, Faridabad. The learned counsel for the applicant, Shri S.K. Gupta, also submitted that the impugned order has not given the reasons for the rejection after considering the evidence submitted by the applicant.

4. The respondents have filed their reply in which they have stated that the applicant had not given any advance intimation to them for keeping a person other than his family members, to lookafter his house during his absence in 1991. When there was a spot inspection of the premises, which was carried out on 26.9.1991, admittedly the applicant had allowed one Shri Raj Kumar to stay in the quarter in question. They have denied that the order dated 15.12.1994 has been passed in violation of the directions of the Tribunal dated 13.5.1994.

The applicant had been given opportunities for being heard on 12.12.1994 which is ^{an} ~~admitted~~ ^{fact} when he produced the evidence which he is now relying upon. This evidence had been considered by the competent authority before passing the order dated 15.12.1994.

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5. According to Shri M.K.Gupta, learned counsel for the respondents, the applicant has not disproved the statement recorded by the raiding party on 26.9.91 that the applicant had sublet his quarter to an unauthorised person. The learned counsel submits that the admission ticket issued by the University of Delhi to the applicant's daughter was for an examination in 1992 and the CGHS card was issued on 31.12.1992 and these documents, therefore, do not help the applicant's case that he had not unauthorisedly sub-let the quarter during the period in question i.e. 26.9.1991. In the letter produced by Shri Raj Kumar dated 17. 12.1992, he refers to himself as a 'friend' of the applicant when he was living in the quarter in question which is contrary to the applicant's own representation given earlier dated 17.12.1991 that he had given the house to a 'relative' during the absence of his family members. He further submits that since the competent authority has considered all the evidence placed before him before passing the impugned order and given a reasoned order, the same is valid. He submits that the order dated 15.12.1994 has been passed as per the provisions of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 and in accordance with the directions of the Tribunal in OA No.402/93, dated 13.5.1994. Therefore, the Respondents submit that the application should be dismissed and the applicant should be directed to vacate and hand-over the vacant possession of the Government quarter together -

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with payment of damages for the period of overstay.

6. I have carefully considered the arguments of both the parties and perused the records in the case. I have also perused the proceedings in file No. EO/EC/43/92-93 (1485 B) and 2/668/83-CV submitted by the respondents, wherein the decision had been taken by the competent authority to pass the impugned order in pursuance of the judgment of this Tribunal.

7. From a perusal of the records, (F.No. EO/EC/43/92-93), it is clear that the applicant had submitted the evidence, copies of which are placed at Annexure A-10, before the competent authority, which has been duly considered by the competent authority before passing the impugned order of eviction. He has taken into account the applicant's representation dated 01 October 1991 in which the applicant states that he had given the house to a friend, whereas in another representation dated 17.12.1991 he states that he has kept one of his relatives in the house. The Respondent 3 has also stated that the applicant also did not produce the occupant of the house, namely, Shri Raj Kumar. He has also noted that this stand is contradictory. Regarding the letter from Shri Raj Kumar dated 17.12.1992, he states that this is an after-thought. The competent authority has noted in the file that as he has also considered all other documents produced before me which are not helpful to Shri Urba Dutt. Therefore, considering all the

materials on record, the competent authority came to the conclusion that the applicant was in occupation of the Public Premises unauthorisedly and, therefore, proceeded to pass the impugned order of eviction dated 12/15-12-1994 in which he has stated the applicant has failed to prove that he was not in unauthorised occupation of the quarter.

8. Considering the facts and circumstances of the case, it is seen, therefore, that in pursuance of the Tribunal's order dated 13.5.1994, the applicant had been given show cause notice and given opportunity to furnish further evidence that he had not sub-let the premises. After perusal of the relevant record and evidence submitted by the respondents, I find that there is no basis regarding the submissions made by the applicant that the competent authority has not considered the evidence submitted by him or passed a reasoned order. The competent authority has fully applied his mind to the evidence produced before him and given reasons for passing the order dated 15.12.1994 and it is not for this Tribunal to reappraise the evidence or substitute its decision when the order is based on evidence and is not arbitrary or unreasonable. Further, this order has been passed in compliance with the order of the Tribunal dated 13.5.1994, and I see no justification to interfere with the eviction order.

J.S.

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9. In the result, the application fails and is dismissed. The respondents may take such action as they deem fit for vacation of the quarter and recovery of dues, including recovery of penal rent/ damages for the period of overstay by the applicant in the quarter, in accordance with law. There will be no order as to costs.

Lakshmi Swaminathan
(Lakshmi Swaminathan)
Member (J)