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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

O.A.No. 974/94.

Date of decision. 23-11-94

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

Inspector Rohtash Singh Tanwar,
Through: MS. Mukta Gupta (Advocate),
236, Lawyers' Chamber,
Delhi High Court,
New Delhi.

... Applicant

By Advocate Ms. Mukta Gupta)

versus:

1. Government of National Capital
Territory of Delhi,
Through: Commissioner of Police,
Delhi, Police Headquarters,
M.S.C. Building,
I.P. Estate,
New Delhi-110002.
2. Smt. S. Sundri Nanda,
Dy. Commissioner of Police,
Hqrs. (III), I.P. Estate,
New Delhi-2.
3. Shri Ram Niwas Meena,
Asstt. Commissioner of Police,
IXth Battalion DAP, through
Commissioner of Police,
Delhi.

(By Advocate Shri O.N. Trishal)

O_R_D_E_R

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

The applicant, who is working as Inspector
the Respondent's
with Delhi Police, is aggrieved by order dated
earlier
13.4.1994 by which their order dated 8.11.1993

relating to the mutual exchange of Government flat

No. B-2, Type IV, New Police Lines, Kingsway Camp

with Government Flat No. B-6, New Police Lines, Delhi

(11)

was revoked (Annexure-A). His representation dated 25.4.1994 addressed to the Additional Commissioner of Police (Annexure-L) has also been replied vide communication dated 29.4.1994, which is reproduced below :-

" Spoken to DCP/HQ (III). The exchange of house was on paper only. As such no need to refer the case to DCP/HQ (III)."

2. The facts of the case are that the applicant, who was working as Inspector in Delhi Police, was allotted Flat No. B-6, Type IV, New Police Lines, Kingsway Camp, Delhi. As the wife of the applicant is a heart patient, he moved an application for the mutual exchange of Government quarter allotted to him with the Government quarter allotted to Smt. Santosh Thukral, ACP, No. B-2, Type IV, New Police Lines, Kingsway Camp, Delhi, which was on the ground floor as per the applications placed at Annexures H-1 and H-2. On these requests, the Deputy Commissioner of Police vide his order dated 8.11.1993 allowed the mutual exchange of the quarters with immediate effect (Annexure-I). According to the applicant, he took possession of Flat No. B-2, Type IV on 11.1.1994 as per the information given by him in D.D.No.79 (Annexure-J) and Smt. Santosh Thukral, ACP shifted to Flat No. B-6, Type IV. By

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Annexures K1 and K2 orders dated 25.1.1994 the change of flats by the applicants had been noted.

3. Subsequently, the impugned order dated 13.4.1994 had been passed by respondent No. 2 and it is alleged that this has been done with the connivance of respondent No. 3, cancelling the earlier order dated 8.11.1993. The learned counsel for the applicant has impugned the revocation order dated 13.4.1994 on the grounds -

- (i) that it is illegal as no show cause notice was issued to the applicant before passing the impugned order thereby violating the principles of natural justice;
- (ii) that no reasons have been given for revoking the earlier order dated 8.11.93 allowing the ^umutual exchange of the quarters; and
- (iii) that the applicant's representation (Annexure-N) though addressed to Additional Commissioner of Police has been rejected by the DCP (Vigilance) on a flimsy ground that the exchange of houses was on paper only without giving any opportunity of hearing the applicant.
- (iv) The representation made by the applicant was not even put before the Additional Commissioner of Police but the decision had been taken at the level of DCP (Vigilance) who had rejected the representation ^{by} merely

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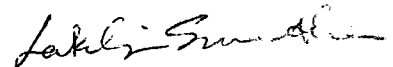
speaking to respondent No. 2 as seen from the communication dated 29.11.1994.

4. The learned counsel for the respondents has admitted the fact that the applicant, who was occupying quarter No. B-6, Type IV, New Police Lines, Delhi and Smt. Santosh Thukral, ACP, who had been allotted quarter No. B-2, Type IV, New Police Lines, the latter quarter being on the ground floor, were allowed to exchange the Government quarters 11.1.1993. mutually vide order dated 8.11.93 and D.D.No:79 dated/ The report lodged by the officer regarding occupation/vacation of their Government quarters is also admitted. However, the learned counsel for the respondents states that later on when an inspection was conducted "recently" it was found that they have not actually exchanged their quarters as stated in the D.D. Entry. Accordingly, the mutual exchange order dated 8.11.1993 in respect of the two Government quarters was revoked by the order dated 13.11.1994.
5. The respondents were directed to produce the inspection report by 14.11.1994. They have failed to produce the same for my perusal. Admittedly, the respondents have revoked their earlier order dated 8.11.1993 based on the enquiry officer's report, which was not supplied to the applicant and

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without giving a show-cause notice to the applicant, thereby clearly violating the principles of natural justice. On this ground alone, the impugned order dated 13.4.1994 whereby the earlier order dated 8.11.93 was revoked, is bad in law, and is hereby quashed and set aside. Consequently, the rejection of the applicant's appeal by order dated 29.4.1994 is also quashed and set aside.

6. In the result, the application is allowed with a direction to the respondents not to dispossess the applicant from the quarter No. B-2, Type IV, New Police Lines, Kingsway Camp, Delhi which has been allotted to him by order dated 8.11.1993 except in accordance with law. There will be no order as to costs.


(Smt. Lakshmi Swaminathan)
Member (J)