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CENTRAL ADMINISTRATIVE TRIBUNAL: PRINCIPAL BENCH

Original Application No.1035 of 2000

New Delhi, this the 9th day of July, 2001

HON'BLE MR.KULDIP SINGH, MEMBER(JUDL)

HC Rajesh Kumar S/o Sh. Chintta Mani
R/o Quarter No.1050, Type-II, Sector-8,
R.K. Puram,
New Delhi.

-APPLICANT

(By Advocate: Shri Yogesh Sharma)

Versus

1. NCT of Delhi through The
Chief Secretary,
5, Sham Nath Marg,
Delhi.
2. The Commissioner of Police,
Police Head Quarters, I.P. Estate,
New Delhi.
3. The Deputy Commissioner of Police,
Quarter Allotment Cell,
Police Head Quarters,
New Delhi. -RESPONDENTS

(By Advocate: Shri Ajesh Luthra)

O R D E R (ORAL)

By Hon'ble Mr.Kuldip Singh, Member(Judl)

The applicant has filed this OA as he is aggrieved of the order passed by the respondents with regard to cancellation of allotment of the Government quarter allotted to him.

2. Facts in brief are that the applicant being a member of Delhi Police got employment as Constable and was allotted Government accommodation bearing Quarter No.1050 Type-II, Sector-8, R.K. Puram, New Delhi. He received a show cause notice dated 8.10.99 alleging therein that he has sub-let his quarter to some other person unauthorisedly in contravention of S.O 3/98 and as such is liable for action.

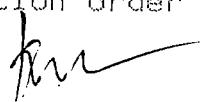


3. The applicant contested the show cause notice and denied the allegation of subletting vide his reply dated 26.10.99. However, the respondents passed an impugned order holding that the applicant had admitted that his cousin brother Shri Bachan Singh was staying in the said quarter, therefore, the allotment was cancelled. The applicant preferred an appeal also before the superior officer, but the same was also rejected.

4. The applicant has challenged those orders in the present OA. In the grounds to assail them, the applicant has stated that he has not sublet his quarter to anyone nor he has admitted the same to the authorities.

5. Besides that he has also submitted that from, the very first day he had denied that he had sublet the quarter to anyone so there is no question of admission made by him before the authorities with regard to the subletting of the premises and as such the applicant prays for cancellation of the same.

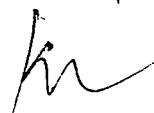
6. In reply to this, the respondents pleaded that a complaint regarding subletting was received in the office which was got inquired into and it was found that the quarter had been sublet to one Shri Bachan Singh so accordingly a show cause notice was issued and since the applicant has admitted that his cousin was residing there so the complaint was stated to have been proved and, therefore, the cancellation order was passed.



7. I have heard the learned counsel for the parties and gone through the records of the case.

8. From a perusal of the show cause notice it is clear that the show cause notice is quite vague because in the show cause notice there was no allegation that the applicant had sublet the quarter to Shri Bachan Singh rather it says that the applicant had sublet to some other person. The applicant was never given an opportunity in specific terms to explain about the subletting of the accommodation and immediately on receipt of the show cause notice he has given a reply wherein he has stated that since his wife had joined a DIET Course (Basic Teacher Training) at Keshav Puram and he leaves the house with the neighbours at the quarter and for some days his sister use to look after them in his absence of his wife, that too only during the working hours because his sister is also residing in a Government quarter allotted to his family in the nearby Sector, i.e. Sector-5 and he denied that anybody else is occupying the quarter. There is no document on record to show that applicant had made any admission before the authorities concerned that he had sublet the quarter though in the reply the respondents have submitted an enquiry report that one person namely Bachan Singh is residing there.

9. I have gone through the same also but this does not show whom the Enquiry Officer had examined when he had recorded that one Shri Bachan Singh is in occupation of the premises. The report did show that



Shri Bachan Singh himself had told the Inquiry Officer that he is the brother of the applicant and is residing there and the allottee was not residing but no statement of Shri Bachan Singh was recorded and this report has also not been supplied to the applicant, when show cause notice was issued to the applicant. Hence, applicant was not even provided proper opportunity to defend his case. The counsel for the applicant has also relied upon a judgment given by a Co-ordinate Bench on OA No.2858/99 entitled as Jagdish Vs. NCT of Delhi and Others wherein also a similar show cause notice was given and a similar "admission" was alleged to have been made the Ordered Room before OCP in that OA. Accordingly, the quarter allotted to the applicant was cancelled. However, the court did not rely upon the notice/show cause notice, but quashed the same.

10. Assuming for the arguments sake that if Bachan Singh, cousin brother of the applicant was residing in the premises then that will amount to sharing of quarter and it will not amount to subletting and the sharing of the accommodation does not fall within the purview of 30 3/98 under which the allotment had been cancelled as it has been noted by the judgment relied upon by the counsel for the applicant.

11. Considering the submissions made by the parties, I am of the considered opinion that in this case also the case is based on no evidence as there is no proof of subletting and "admission" relied upon by the respondents to cancel the allotment does not seem to

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have been made particularly when the allottee himself is contesting the notice from the day one when he has received the same.

12. In view of the above OA, succeeds and is allowed. The impugned order is quashed. The applicant will continue to occupy the quarter in question. No costs.


(KULDIP SINGH)
MEMBER(JUDL)

/Rakesh