

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

OA 660/2000

New Delhi this the 4th day of December, 2000

HC Om Parkash S/O Shri Shiv Charan
R/O Q.No.H-30, Type-I, Sector-12,
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. 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

(None for the respondents)

O R D E R (ORAL)

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

The applicant has impugned the order passed by the respondents dated 11.2.2000 (Annexure A-1). He has also impugned the show cause notice dated 16.7.1999 (Annexure A-2) issued by the respondents, calling upon him to show cause as to why the allotment of the Govt.quarter No.H-30, Type-I, Sector-XII, New Delhi, should not be cancelled on the alleged ground of subletting.

2. I have heard Shri Yogesh Sharma, learned counsel for the applicant and perused the pleadings and documents on record.

3. One of the main contentions of the learned counsel for the applicant is that the impugned show cause notice dated 16.7.1999 does not give sufficient details nor does it

13

10

enclose copy of the complaint or enquiry which had been conducted by the respondents earlier, on the basis of which show cause notice was issued. He has also submitted that the applicant has ^a ~~not~~ admitted that one Shri Ramesh, who is ^a ~~relative~~, was staying in the house at the relevant time. Learned counsel has also relied on the documents, namely, Ration Card dated Nil, Medical Card dated 1.7.1994 and identity card dated 21.6.1990, copies placed at pages 31-33 of the rejoinder. According to the learned counsel, these annexures show that the applicant was residing in the aforesaid Govt. quarter which had been allotted to him during the relevant period, when the respondents have arbitrarily and illegally alleged that the applicant had sub-let ^a ~~the~~ quarter to Shri Ramesh who is ^a ~~relative~~. He has submitted that this is not the position. He has also relied on the orders of the Tribunal in Ram Kishan Vs. the Joint Secretary and Anr. (1997(2)ATJ 19 and Ved Prakash Vs. Director, Directorate of Estates and Anr. (1998(1)SLJ 168) (Copies placed at Annexures A-6 and A-7).

4. As none has appeared for the respondents even on the second call, I have perused their reply which is on record. According to them, in the reply to the show cause notice issued to the applicant, he had not mentioned the exact period when his relative was staying in the Govt. quarter and on enquiry the relative himself has stated that he is residing for the last three months. They have also stated that the impugned order of cancellation of the Govt. quarter which was earlier allotted to ⁸

the applicant has been done after considering the reply filed by the applicant and hence there is no violation of the relevant Rules. They have also stated that the action taken by them has been done after giving an opportunity to the applicant to submit his reply and also giving him personal hearing. In the circumstances, they have prayed that the application may be dismissed.

5. I have carefully considered the pleadings, documents on record and submissions made by Shri Yogesh Sharma, learned counsel for the applicant.

6. In the impugned show cause notice dated 16.7.1999, the respondents have stated clearly that the applicant was not residing in his allotted Govt. quarter and subletted the same to one Shri Ramesh for the last two months unauthorisedly, which is contravention of SO 3/98. As such it was stated that he was liable for such action and, therefore, he was called upon to show cause as to why the allotment of the Govt. quarter in question should not be cancelled in his favour. Shri Yogesh Sharma, learned counsel has relied on the judgement of the Tribunal in Ram Kishan's case(supra) of the same Bench. The facts in that case are distinguishable from the present case because a perusal of the show cause notice dated 16.7.1999 shows that sufficient details of the sub-letting of the Govt. quarter in question, had been provided by the respondents. Therefore, Ram Kishan's case(supra) will not assist the applicant. Similarly,

the order of the Tribunal in Ved Prakash's case (Supra) will also not assist the applicant in the present case. The documents relied upon by the applicant do not establish his claim that he had been residing in the Govt. quarter allotted to him for the period for which the respondents have alleged that he had sub-let¹⁸ the same. In the show cause notice, it has been stated that this has been done for the last two months which would, therefore, be from the middle of May¹⁸ June and part of July. In the reply to the show cause notice, the applicant has stated that he is residing in the Govt. quarter and had never sublet¹⁸ the same to any one. He has further stated that Shri Ramesh who is relative came to Delhi in connection with some medical problems and, therefore, ^{was} temporarily residing with him. Learned counsel for the applicant has not been able to show any documents on record to establish the fact that the applicant was residing in the Govt. quarter for the aforesaid period of two months, whereas the respondents have alleged that he had sub-letted the quarter to Shri Ramesh. He has also not been able to establish that Shri Ramesh is a relative. The documents relied upon by the applicant, namely, ^{the} Ration Card which is un-dated, ~~on which no date was given~~ and the Medical Card is dated 1.7.1994 and the identity Card is dated 21.5.1990. These documents ^{the fact} Therefore, none of/establish¹⁸ that the applicant was residing in the Govt. quarter during the period in question along with Shri Ramesh and his family as stated by him in the reply to show cause notice. The respondents have also correctly pointed out that in reply to show cause notice, the applicant/given^{the} had not exact period¹⁸

(3)

of his relative staying in the Govt. quarter and that he had himself stated that he is residing for the last three months.

7. Therefore, taking into account the above relevant facts and circumstances of the case, the action taken by the respondents cannot be held to be either arbitrary or in violation of the principles of natural justice or against the Rules. In other words, the impugned order dated 11.2.2000 has been passed by the respondents in accordance with the relevant rules and instructions, after giving the applicant due opportunity to put forward his case. I do not find any legal infirmity in the show cause notice in the circumstances of the case to justify any interference in the matter or to set aside the impugned orders dated 11.2.2000 and dated 11.7.1999.

8. In the result for the reasons given above, the OA is dismissed. No costs.

Lakshmi Swaminathan
(Smt. Lakshmi Swaminathan)
Member(J)

sk