

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH,
NEW DELHI.

O.A.No.1473 of 1989

Date of Decision:18.5.93.

Karam SinghApplicant.

Versus

Union of India & othersRespondents.

CORAM:

Hon'ble Mr.J.P.Sharma,Member(J)

Hon'ble Mr.S.R.Adige,Member(A)

For the applicant: Shri Sant Lal,Counsel.

For the respondents Shri M.L.Verma,Counsel.

JUDGMENT(ORAL)

(By Hon'ble Mr.J.P.Sharma,Member(J).)

Applicant Karam Singh has filed this application under Section 19 of the Administrative Tribunals Act,1985 assailing the order of cancellation of allotment vide order dated 30.8.88 w.e.f. 7.10.88 of the premises attached to the Post Office of S.M. Kasturba Nagar. He has further assailed show cause notice wherein by memo dated 10.5.89, in pursuance of Sub-Section(3) of Section 7 of the Public Premises Act,1971, he was called upon to show as to why he should not be made to pay the penal rent along with arrears at the rate of Rs.886-20 P per month from 1.9.88 upto the vacation of the quarter. He has also assailed the order of eviction dated 24.4.89 passed under Sub-Section(1) of Section 5 of the Public Premises Act,1971 in pursuance of which a letter was issued to the Deputy Commissioner of Police on 19.7.89 for getting the quarter vacated from the applicant. In the mean time, the applicant on 26.7.89, filed the present application and vide order dated 28.7.89 an interim relief was granted to him restraining the respondents from recovering any penal rent from the applicant and the operation of the eviction order was stayed. By virtue of the applicant

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having been posted again to Dr. Ambedkar Nagar Post Office as Sub-Post Master, the quarter attached to it, the applicant, in due course of time, after the said quarter was vacated by the unauthorised occupant, occupied the said quarter on 27.9.89. The material relief which has now been claimed in this application is that the respondents should not act upon the show cause notice for the payment of penal rent at the rate of Rs 886-20P. per month from 1.9.88 till the vacation of the quarter.

2. The respondents contested this application taking a preliminary objection and also opposing the relief of grant on merit.

3. We have heard the learned counsel for the parties and have perused the record. In fact, by virtue of Rule 37 of P & T Rules, Part I, the relevant extract of which is being placed as Annexure to the rejoinder, the applicant is entitled to 'Rent -free accommodation' by virtue of the Office of Sub-Post Master. The contention of the learned counsel is that the petitioner was transferred on 19.4.88 to Kailash Colony Post Office in the same capacity but as there was no quarter for the Post of Sub-Post Master Dr. Ambedkar Nagar, as such he was entitled to 10% of the Basic Salary equivalent to non-allotment of the post quarter to him. In fact, the stay at Kailash Colony was only till 14.10.88 as thereafter he was transferred to Dr. Ambedkar Nagar Post Office in the same capacity where a quarter attached to the post was available. But since it was in an unauthorised occupation, the same was not made available to the applicant. In view of these averments in the application and highlighted in the arguments by the learned counsel for the applicants, the issuance of show notice (Annexure-A3) dated 10.5.89 is totally unjustified

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and is not warranted as per rules. Learned counsel for the respondents could not show as to why the notices were issued to the applicant. In view of the fact that at no point of time the applicant was at fault, the respondents themselves did not compensate by paying 10% of Basic Salary when he was transferred from Kasturba Nagar Post Office to Kailash Colony Post Office where there was no quarter attached to the post and as per rule he was entitled to rent-free accommodation. Further, on transfer to Dr. Ambedkar Nagar Post Office on 15.10.88, he was not provided a quarter attached to the post available there. But he was only provided a quarter on 27.9.89 and he occupied the same. In view of this fact, the application has force and the impugned notice dated 10.5.89 and the impugned order absolute in this case dated 30.8.88 and 24.4.89 are liable to be quashed. This application is, therefore, allowed and the impugned notice dated 10.5.89 and the impugned orders dated 30.8.88 and 24.4.89 are quashed and the show cause notice to the applicant is discharged.

4. Under the circumstances, the parties are directed to bear their own costs.

S.R. Adige
 (S.R. ADIGE)
 MEMBER (A)

J.P. Sharma
 (J.P. SHARMA)
 MEMBER (J)

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