

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

O.A. No. 1877/89

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T.A. No.

DATE OF DECISION 28.2.1997

Sh. Mohan Singh III

Petitioner

Shri Sant Lal

Advocate for the Petitioner(s)

Versus

U.D.I. & Ors

Respondent

Shri M.K. Gupta

Advocate for the Respondent(s)

CORAM

The Hon'ble Mrs. Lakshmi Swaminathan, Member (J)

The Hon'ble Mr. S.P. Biswas, Member (A)

1. To be referred to the Reporter or not?

Y

X

2. Whether it needs to be circulated to other Benches of the Tribunal?

Lakshmi Swaminathan

(Smt. Lakshmi Swaminathan)

Member (J)

Central Administrative Tribunal
Principal Bench

O.A. 1877/89

New Delhi this the 28th day of February, 1997

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

Hon'ble Shri S.P. Biswas, Member(A).

Mohan Singh, III,
S/o Shri Tej Singh,
R/o C/o Shri Sant Lal, Advocate,
C-21(B), New Multan Nagar,
Delhi-56.

...Applicant.

By Advocate Shri Sant Lal.

Versus

1. The Chief Postmaster General,
Delhi Circle, New Delhi-110001.
2. The EstateOfficer,
O/O The C.P.M.G.,
Delhi Circle,
New Delhi-1.

...Respondents.

By Advocate Shri M.K. Gupta.

O R D E R

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

The applicant is aggrieved by the actions taken by the respondents in orders at Annexures A-1 to A-4 and he has sought quashing of the order relating to imposition of recovery of damages/penal rent. The learned counsel has submitted that he is not seeking any remedy against the order cancelling the allotment of Quarter No. A-13/3, Pankha Road, New Delhi as the applicant has already vacated the premises.

2. The brief facts of the case are that the applicant, who is working as Mailman, has been allotted ^{the} P&T quarter, referred to above. The respondents cancelled the allotment of the said quarter by their order dated 15.4.1988 w.e.f. 15.5.1988. The reason given for the cancellation was that the applicant had unauthorisedly sublet the

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Government premises which fact has been disputed by the applicant in this O.A. Thereafter, the respondents issued the letter dated 8.9.1988 for recovery of damage charges/penal rent under Section 8 of the Public Premises (Eviction of Unauthorised Occupants), Act, 1971. The applicant submits that he transferred the vacant possession of the aforesaid quarter to the respondents on 23.5.1988, i.e. within the permissible period of 60 days, as prescribed in SR 317-B-21(3). Shri Sant Lal, learned counsel for the applicant, therefore, submits that even though the applicant has vacated the said quarter as directed, the Estate Officer had issued a show cause notice on 23.6.1988 proposing recovery of damages/penal rent from the date of allotment of the Government quarter to him. The applicant had been afforded a personal hearing by the Estate Officer who thereafter issued another notice under Sec. 7(3) of the P.P. Act, 1971 for recovery of a sum of Rs.21,613.30, as arrears of rent from 12.3.1988 to 23.5.1988 as due and payable. To this also, the applicant had replied and denied the allegation that any rent was payable. The Estate Officer passed the final order on 1.5.1989 directing the applicant to pay the due amount with interest @ 11.3 per cent per annum w.e.f. May, 1989 till final payment. It appears that yet another notice had been issued by the Estate Officer on 24.5.1989 for recovery of the same amount to which also the applicant filed a reply. The main contention of the learned counsel for the applicant is that/the applicant had not sublet the said premises therefore, he cannot be treated as an unauthorised occupant for which the penal rent is chargeable.

3. The respondents in their reply have submitted that on receipt of the complaint by one Shri Satya Pal Singh that the applicant had sublet the Government Quarter No. A-13/3, Pankha Road, New Delhi and that he himself was residing at 4845, Laddoo Ghati, Paharganj, New Delhi, the

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respondents had visited the Government quarter as well as the private Quarter at 4845, Laddoo Ghati on 22.2.1988 and made ~~the~~ enquiries. They have stated that during the course of inquiries, they found Shri Santosh Chakraborty and his family in occupation of the Govt. quarter. They have also submitted that on inquiries at 4845, Laddoo Ghati, Paharganj, the wife of the applicant, Mrs Shanti Devi, who was present there, confirmed the fact that the applicant and his family were residing there for the last twenty years and that their Government accommodation had been rented out to someone else but she is not aware of the rent being charged by her husband from the tenant.

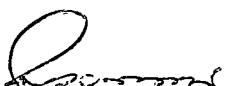
4. The respondents have filed the complaint of Shri Satyapal Singh as well as the voter list of Chandni Chowk Electoral list of 1987. They have also submitted that they have checked the family ration card which shows the applicant's address at 4845, Laddoo Ghati, Paharganj. The CGHS card token number also stands issued in his name at the address in Paharganj. Based on these facts and evidence, they have submitted that the applicant had sublet the Government quarter to the Chakraborty family and that he had himself been residing at 4845, Laddoo Ghati, Paharganj, Delhi and, therefore, proceeded to cancel the allotment of the quarter with penal rent.

5. From the facts narrated above, it is seen that the respondents have passed the orders for recovery of damages/penal rent from the applicant for unauthorised use and occupation of the Government accommodation which cannot be faulted. They have relied on the statement given by the occupant Mrs. Manuti Chakraborty to ~~whose~~ the applicant had sublet the quarter as well as the statement made by the applicant's wife regarding subletting of the accommodation. The other evidence, namely, the CGHS card, ration card and the relevant electoral list for Chandni Chowk constituency also shows that the applicant and his family are not residing in the ~~Government~~ Government accommodation but/residents of Laddoo Ghati, Paharganj, New Delhi. We also note that the applicant

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has not controverted these facts. Further, the applicant in his representation dated 1.7.1988 has also submitted that since the Government accommodation was lying vacant, he had allowed some persons who were known to him, to stay in that quarter for a period of 2 and $2\frac{1}{2}$ months because the examination of his children was going on, though he has denied taking any rent for the same. It is well settled position of law that the Court/Tribunal ought not to sit as a Court of Appeal to reappraise the evidence which has been placed before the competent authority. We are satisfied that the competent authority, namely, the Estate Officer, had sufficient material to come to the conclusion that the applicant had unauthorisedly sublet the Government accommodation. No materials have been placed on the record by the applicant to deny this fact and, therefore, there are no good grounds to justify any interference in the matter.

6. In the result, the application fails and it is dismissed accordingly. No order as to costs.



(S.P. Biswas)
Member(A)



(Smt. Lakshmi Swaminathan)
Member(J)

'SRD'