

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

O.A. No. 1936
T.A. No.

1989

DATE OF DECISION January 10, 1990.

(S)

Shri S.L. Bansal Applicant (s)

Shri D.P. Avinashi Advocate for the Applicant (s)

Versus
Union of India & Ors Respondent (s)

Shri P.P. Khurana Advocate for the Respondent (s)

CORAM :

The Hon'ble Mr. P.C. JAIN, MEMBER (A)

~~x The Hon'ble Mr.~~

1. Whether Reporters of local papers may be allowed to see the Judgement? *Y*
2. To be referred to the Reporter or not? *Y*
3. Whether their Lordships wish to see the fair copy of the Judgement? *No.*
4. To be circulated to all Benches of the Tribunal? *No.*

JUDGEMENT

In this Application under Section 19 of the Administrative Tribunals Act, 1985, the applicant has challenged the cancellation of the allotment of the residential accommodation allotted to him by respondent No. 1 (Annexure A to the application), notice dated 12.12.88 under Section 4 of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 (Annexure C to the application); eviction order passed by respondent No. 2 under Section 5 of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 (Annexure E to the application) and demand of damages amounting to Rs. 37,168.80 (Annexure F to the application). Briefly stated, the facts are that the applicant joined the Indian Air Force as a Corporal on 2.7.60 and took voluntary retirement therefrom on 31.7.75. He joined the service under the Directorate of Training and Technical Education, New Delhi, on 9.9.75 and is presently working as a Store Superintendent at Industrial Training Institute at Shahdara.

under the Directorate of Technical Education, Delhi Administration, Delhi. He was allotted government accommodation by respondent No. 1 on 8.1.82 and he is at present residing in the premises No. AB 852, Sarojini Nager, New Delhi. Respondent No. 1 addressed a letter dated 29/30.11.1988 to the Principal, Industrial Training Institute, Shahdara, Delhi, with a copy to the applicant, by which the decision of the Competent authority for cancelling the allotment of the residential accommodation allotted to the applicant from 8.1.82

~~was cancelled~~ with effect from the date of taking over of the residential accommodation and the applicant was directed to hand over the vacant possession of the quarter in his possession at present immediately. This letter also mentioned that it had come to the notice that the applicant obtained the allotment of Government quarter on the basis of forged documents furnished by him. He made a representation dated nil, a copy of which is at Annexure B to the application. In this representation he agitated about an opportunity not being given to him to explain and also stated that no reason had been assigned. He, therefore, requested that cancellation order be kept in abeyance till the allegation and evidence against him are intimated to him and he is given an opportunity to explain. On 12.12.88 respondent No. 2 issued a notice to the applicant under Section 4 of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971, asking the applicant to show cause on or before 26.12.88. The applicant in reply to the show cause notice requested respondent No. 2 by his letter dated nil that he may be given some time to pursue his case with the allotment section to regularise the same in his name. Respondent No. 2 then passed an order under Section 5 of the Public Premises (Eviction of unauthorised Occupants) Act, 1971, ordering the applicant to vacate the premises in his possession within 15 days from the date of publication of the order. Vide order dated 21.8.89 a claim for Rs. 37,168.80 has been sent by respondent No. 2 to the applicant.

2. Respondents did not file their reply despite opportunity given to them. However, Shri P.P. Khurana learned counsel appeared for the respondents.

3. I have heard the learned counsel for both the parties and also gone through the record. The applicant has challenged the action of the respondents as being bad in law and as violative of principle of natural justice.

4. It is not disputed that the applicant has been in possession of residential quarter allotted to him by respondents from 8.1.82. Suddenly vide letter dated 29/30.11.88 these allotments have been cancelled w.e.f. the date of allotment. For example, the first accommodation allotted to him w.e.f. 8.1.82 and which was in his occupation upto 31.12.82 has been cancelled w.e.f. 8.1.82. The second accommodation allotted to him w.e.f. 28.12.82 and which remained in his occupation upto 9.6.84 has been cancelled w.e.f. 28.12.82. The present accommodation in his occupation which was allotted to him w.e.f. 17.5.83 has also been cancelled with effect from the same date. He has not been given any opportunity to show cause before this action of cancellation of allotment, and that too with retrospective effect, was ^{given} ~~given~~. This is in complete violation of principles of natural justice and is violative of the doctrine of audi-alteram partem. It is an established proposition of law that provision of Articles 14 and 16 of the Constitution are also applicable to executive action.

5. Notice under Section 4 of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 is based on the cancellation order dated 29/30.11.88 and no other reasons are mentioned therein; only the number and date of the letter are mentioned in this notice. In view of what has been stated above, this notice also cannot be sustained as the ground on which it is based is unsustainable in law. Subsequent order of eviction under Section 5 of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 and the claim of Rs. 37,168.80 are, therefore also not sustainable in law.

6. In view of the above discussion, order dated 29/30.11.88 from the Directorate of Estate, Government of India, cancelling the allotment of Government quarter allotted to the applicant from time to time; notice dated 12.12.1988 issued under Section 4 of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971, by

the Estate Officer; order under Section 5 of the Public Premises (Eviction of Unauthorised Occupants) Act 1971 for eviction of the applicant; and letter dated 21.8.1989 asking the applicant to pay an amount of Rs. 37,168/80 are hereby quashed.

7. The applicant shall be entitled to continue to occupy the residential quarter AB 852, Sarojini Nagar, New Delhi, on payment of normal licence fee until his allotment is cancelled or ^{he} is dispossessed therefrom in accordance with process of law. The respondents shall be free to initiate fresh action in accordance with the law and relevant rules, if so advised. The application is, therefore, allowed in terms of the above directions. There will be no order as to costs.

11.11.1990
(P.C. JAIN)
MEMBER (A)