

IN THE GENERAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A. No. 832/1988

New Delhi this the 1th Day of December, 1993

The Hon'ble Mr. B.N. Dhoundiyal, Member (A)
The Hon'ble Mr. B.S. Hegde, Member (J)

Sh. M.P. Singh,
S/o Sh. Vijay Singh,
R/o 9/9, Janakpuri,
New Delhi

... Applicant

(By Advocate Sh. Doraiswamy)

Versus

1. Director General, Deptt. of
Telecommunication, Sanchar Bhawan,
New Delhi
2. Asstt. Engineer, Bldg-II,
Delhi Telephone, Delhi

... Respondents

(By Advocate Sh. V.K. Rao, proxy counsel
for Sh. A.K. Sikri)

ORDER (ORAL)

(Hon'ble Sh. B.N. Dhoundiyal, Member (A))

The applicant Sh. M.P. Singh, is at present working as Junior Technical Officer (A), K-ali Bari Marg, New Delhi. On 30th March, 1974 he was posted as S.D.O. (Phone) Faridabad and in that capacity he was allotted a quarter on 15-6-1974. On 17-2-1977, he was transferred as DEP (CPR) and (J.N.) Maintenance (South) in 1977, he was transferred and posted as J.E. Telex Maintenance under the Area Manager (L&D)

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at Delhi and in November, 1984, he was transferred and posted as JE (E) DTO, Prasad Nagar, New Delhi. He continued to retain the quarter at Faridabad upto 28.2.1985. He made a representation to the competent authority to allot him a quarter at Delhi but no reply was received through out this period. He was paying 10% of his basic pay as rent and no H.R.A. was drawn by him. On 14.8.1985, he received a notice from AE (Bldg. II) regarding cancellation of the allotment of said quarter with retrospective effect i.e. 17.2.1977. This notice also mentioned that he will be charged market rent. Another notice was received by him from the Estate Officer, Delhi (Telephone) vide their No. 776/85/2 dated 20-8-1985 through which he was informed that "the above mentioned quarter stands cancelled in his favour w.e.f. 17.2.1977" ^{and he} was asked to show cause as to ^{be} why an order of eviction should not be passed against him. However, he had already vacated the quarter on 28-2-1985. Hence this notice was infructuous.

2. In the counter filed by the respondents a preliminary objection has been raised regarding limitation i.e. though the applicant challenged the order dated 22.7.85, the application has been filed in April, 1988, and no explanation has been given for the delay. It is also argued that the applicant is well

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aware of the rules of the allotment i.e. penal rent is charged. The applicant was working in operation and maintenance and the quarter is attached to this specific post. The moment, applicant was transferred from that place, the next incumbent who joined in his place was entitled to occupy the said quarter under Rule 33 of the allotment rules. Officials who are allotted quarters attached to the post can retain the said quarter on transfer on payment of rent under FR 45-A only upto the period of joining time. In exceptional cases, the official may be permitted by the head of circle to retain the quarter at the old station for a period not exceeding two months. The applicant in this case continued to stay for a period of 8 years. The respondents have also furnished details of Rs 19,534.74 payable by the applicant.

3. We have heard the learned counsel for both the parties. The learned counsel for the applicant has drawn our attention to Section 7 of the Public Premises (Eviction of Unauthorised occupants) Act, 1971 sub rule 3 which states "that no order under sub section (1) or sub section (2) shall be made against any person until after the issue of a notice in writing to the person calling upon him to show cause within such time as may be specified in the notice, why such order should not be made, and until his

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objections, if any, and any evidence he may produce in support of the same, have been considered by the Estate Officer." The fact that even after his transfer, for about 8 years, the authority did not give any notice to the applicant has not been suitably explained. Learned counsel for the applicant states that during that period the housing position at Faridabad was not so difficult, and that all recovery has already been deducted from the salary of the applicant.

4. In the facts and circumstances of the case, we held" that the applicant is entitled for an opportunity being given to him to explain his case to the authorities. We, therefore, direct the respondents to give notice under Section 7 sub section-3 of the Public Premises (Eviction of Unauthorised occupants) Act, 1971 to the applicant and allow him to explain the circumstances underwhich, he continued to occupy that quarter. If they are not satisfied with the explanation given by the applicant they shall give reasons.

5. The applicant, if so advised, can agitate this matter again in appropriate forum. There will be no order as to costs.

(B.S. Hegde)

Member (J)

(B.N. Dhoundiyal)

Member (A)

11/12/93