

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

O.A. No. 1168 1988
T.A. No.

DATE OF DECISION 13.7.88

Shri K. G. Rao

Petitioner

Shri J. P. Verghese,

Advocate for the Petitioner(s)

Versus

Union of India & others

Respondents

Shri George Parcken, Estate Officer
for Respondents 1 to 3.

Advocate for the Respondent(s)

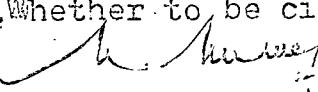
Shri Sunil Lalwani, counsel for
Respondent No. 4.

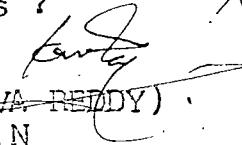
CORAM:

The Hon'ble Mr. Justice K. Madhava Reddy, Chairman

The Hon'ble Mr. Kaushal Kumar, Member

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


(KAUSHAL KUMAR)
MEMBER


(K. MADHAVA REDDY)
CHAIRMAN

13.7.88

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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI.

REGN.NO. OA 1168/88

Date of decision: 13.7.1988

Shri K. G. Rao

..... Applicant

Vs.

Union of India & others Respondents

Coram: Hon'ble Mr. Justice K. Madhava Reddy, Chairman
Hon'ble Mr. Kaushal Kumar, Member

For the Applicant Shri J.P. Vaghese, Counsel.

For the Respondents 1 to 3 Shri George Parcken, Estate Officer for Respondents 1 to 3.

For Respondent No.4
(Judgement of the Bench delivered by
Hon'ble Mr. Justice K. Madhava Reddy, Chairman)

This is an application under Section 19 of the Administrative Tribunals Act, 1985. The applicant is aggrieved by the order dated 25.7.86 by which the allotment of Quarter No.38 M/S.IV/DIZ Area, New Delhi was cancelled and by the order dated 23.5.1988 by which the Respondents initiated proceedings to recover Rs.13,336/- from him and also by the order dated 15.6.1988 by which he is now threatened to be evicted.

2. The applicant is a Local Health Authority in the Department of Prevention of Food Adulteration, New Delhi, Respondent No.4 herein. He is a member of the Scheduled Tribe community. He had applied to Director of Estates, Respondent No.2 herein, for allotment of a quarter on 13.9.1984 on the strength of an eligibility certificate issued by Respondent No.4. He was accordingly allotted a quarter on 5.9.1984 and he is occupying the same ever since.

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However, about two years later by order dated
25.7.1986, Respondent No.2 cancelled the
allotment on the ground that the office of
Respondent No. 4 is not an eligible office for
allotment of a general pool accommodation and
required the applicant to vacate the said quarter
and hand over peaceful possession of the quarter.
He submitted a representation stating that number
of officers belonging to the office of Respondent
No.4 have been allotted quarters and that they
continue to hold the same and that he should be
treated on par with them. He complains that
Respondent No.2 has chosen to single him out
for cancellation. The ~~applicant~~ submitted a
representation through the 4th Respondent requesting
for regularisation of the allotment under the
Rules, if there was any irregularity in the
allotment. The 4th Respondent forwarded his
representation. It is alleged that even after
cancelling the allotment to the applicant,
Respondent No.2 has allotted quarters to other
officers of Respondent No.4 office. One such
officer ^{is} _{Shri M.R.Grover} ^{who} was allotted a quarter
on 2.3.1987. In the meantime, the Union of India,
Respondent No.1 herein, acknowledging the fact
that a number of officers of the 4th Respondent
office are already holding the quarters issued a
letter formally declaring Respondent No.4 office
to be an eligible office for general pool accommodation.
Notwithstanding the above and in
spite of the fact that the applicant explained and
produced the orders of Respondent No.1,



Respondent No.3 has continued to issue summons to the applicant. Finally, order dated 15.6.88 directing the eviction of the applicant was issued. A notice dated 18.12.1987 demanding payment of a sum of Rs.13,336/- was also issued to the applicant. That demand is raised treating the applicant as an unauthorised occupant from the date of the cancellation of allotment to the date of the issue of ^{the} impugned order. The applicant made a further representation on 24.3.1988 which was forwarded on 6.4.1988. Without considering his representation, the Respondents issued the impugned notice dated 23.5.1988 demanding Rs.13,336/- and threatening to recover the same by coercive methods.

3. The facts are not in dispute. The applicant has not made any mis-representation. Having been posted in Delhi as Local Health Authority and not being in possession of any residential accommodation, he applied for allotment of a quarter on the strength of the certificate issued by his own department. While it is true that on the date when the quarter was allotted to the applicant, the officers of Respondent No.4 organisation were not eligible for allotment of quarter from the general pool accommodation, the fact remains that the Union of India subsequently declared that office also eligible for such allotment. Further even when the office of the 4th Respondent was not eligible, several

other officers similarly placed belonging to the Department of Prevention of Food Adulteration, Delhi Administration, New Delhi were allotted accommodation even ~~and~~ after the allotment of the quarter in question to the applicant. Admittedly, as on today the applicant is eligible for allotment of this quarter and if made now would be unexceptionable. Even on the date when the office of the 4th Respondent was not eligible for allotment of accommodation from the general pool, inasmuch as the applicant was allotted the quarter on the strength of the certificate issued to him by Respondent No.4, the applicant could not be faulted and penalised. When he has occupied the quarter on allotment by the Competent Authority, he cannot be deemed to be an unauthorised occupant. If any irregularity or even illegality was committed by the Directorate of Estates, the applicant who is a bonafide occupant cannot be deemed to be an unauthorised occupant and penal rent recovered from him, especially when the irregularity in the allotment, if any, stands cured by the Government of India declaring the office of Respondent No.4 eligible for such accommodation. Further even before the Government of India/declaring the office of Respondent No.4 eligible for general pool accommodation, Respondent No.2 had allotted quarter to Shri M.R.Grover on 2.3.1987. Any cancellation of allotment only in the case of the applicant on the ground that the office of Respondent No.4 was not eligible for general pool accommodation would also be discriminatory and arbitrary and violative of Articles 14 and 16 of the Constitution. Any such cancellation cannot be sustained. Consequently

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the applicant cannot be treated as an unauthorised occupant and penal rent levied on him. All the impugned orders are accordingly quashed. The Respondents are restrained from evicting the applicant from the said quarter and also from recovering the penal rent from him. He is declared entitled to occupy the said quarter on payment of normal licence fee right from the date it was allotted to him. No amount except the normal licence fee shall be recovered from the applicant for the entire period in question.

4. The application, therefore, succeeds and is accordingly allowed with no order as to costs.



(KAUSHAL KUMAR)
MEMBER



(K. MADHAVA REDDY)
CHAIRMAN

13.7.88